

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

**RONDA RACCA, Individually and
on behalf of all similarly situated
persons,** §
§
Plaintiffs, §
§
vs. §
§
EFG GENERAL PARTNER CORP.; §
EDUCATION FUTURES §
MANAGEMENT, COMPANY; §
EDUCATION FUTURES GROUP, LLC §
COMPUTER CAREER CENTER, L.P. §
d/b/a VISTA COLLEGE; PROSPECT §
PARTNERS, LLC; JIM TOLBERT; §
MICHAEL McINERNEY and LOUIS §
KENTER, §
§
Defendants. §

Case No. 1:22-cv-142

DECLARATION OF JOSHUA BAKER IN SUPPORT OF NOTICE OF REMOVAL

I, Joshua Baker, declare:

1. My name is Joshua Baker. I am counsel to Prospect Partners, LLC, Michael McInerney, and Louis Kenter (collectively, the “Removing Defendants”) in the above-styled action. I am over 21 years old and have personal knowledge of the information in this Declaration in my capacity as counsel to Removing Defendants. If called to testify, I would and could competently testify to the facts in this Declaration.

2. Attached as Exhibit A hereto is a true and correct copy of all “process, pleadings and orders” served upon the Removing Defendants in the state court action pending in the District Court of Jefferson County, Texas, styled *Ronda Racca, individually and on behalf of all similarly*

situated persons, v. EFG General Partner Corp., et al., No. D-208582 (the “State Court Action”).

These documents include the following:

- a. A true and correct copy of the Certified Docket Sheet in the State Court Action.
- b. A true and correct copy of the Certified Ledger Card in the State Court Action.
- c. A true and correct copy of the Plaintiff’s Original Class-Action Petition (“Original Complaint”) filed in the State Court Action.
- d. A true and correct copy of Plaintiff’s First Amended Class-Action Petition (“First Amended Complaint”) filed in the State Court Action.
- e. A true and correct copy of all other filings in the State Court Action.

3. On April 4, 2022, acting in my capacity as counsel for Removing Defendants, I accepted Plaintiff’s service of the First Amended Complaint on the Removing Defendants. Plaintiff did not serve the Original Complaint on the Removing Defendants.

4. I have spoken to counsel for all other Defendants in this case, and they represented to me that they consent in the removal of the State Court Action.

I declare under penalty of perjury under the laws of the State of Texas and the laws of the United States of America that the foregoing is true and correct.

Dated: April 7, 2022

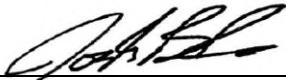
By: 
Joshua Baker

EXHIBIT A

**CERTIFIED
DOCKET SHEET**

CIVIL DOCKET, DISTRICT COURT



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April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jessie Smith Page 1 of 1



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Certified Document Number: 2393742 Total Pages: 1

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**CERTIFIED
LEDGER CARD**

Job Name: CML106 DCLASH
Page: 1Date Run: 4/01/22
Time Run: 11:53:58

*** CASE LEDGER ***

Case Number: D-0208582- Filed: 10/12/21 Case Type: CONTRACT Status: PENDING

Plaintiff: RONDA RACCA INDIVIDU
VS Defendant: EFG GENERAL PARTNER CORP ET ALPlaintiff Attorney: SPARKS, MARK C
Defendant Attorney: NO ATTORNEY AT THIS TIME

Date	Cause No.	Name	Debit Description	Credit Amount/ Receipt No/	Debit Amount	Balance
10/12/21	D-0208582-	SPARKS, MARK C	RECORDS MANAGEMENT	347.00+ B 0527413	10.00-	
			RECORDS ARCHIVE FEE		10.00-	
			COUNTY FILING FEE		50.00-	
			STATE FILING FEE		50.00-	
			LIBRARY FEE		10.00-	
			MEDIATION CENTER FEE		15.00-	
			STENO		15.00-	
			SECURITY FEE		5.00-	
			INDIGENT FEE		10.00-	
			JUDICIAL SUPPORT		42.00-	
			APPELLATE JUDICIAL SYSTEM		5.00-	
			ELECTRONIC FILING FEE		30.00-	
			COURT RECORD PRESERVATION		10.00-	
			SECURITY OF COURTS AND JUDGES		5.00-	
			JURY		40.00-	
		PETITION (PLAINTIFF'S ORIGINAL)			.00	
		APPLICATION (JURY TRIAL/JURY DEMAND)			.00	
		CIVIL PROCESS FORM			.00	
					40.00+	
10/13/21	D-0208582-	FERGUSON, TIMOTHY M.				
		CITATION	DISTRICT CLERK SERVICE CHARGE		8.00-	
		CITATION	DISTRICT CLERK SERVICE CHARGE		8.00-	
		CITATION	DISTRICT CLERK SERVICE CHARGE		8.00-	
		CITATION	DISTRICT CLERK SERVICE CHARGE		8.00-	
		CITATION	DISTRICT CLERK SERVICE CHARGE		8.00-	
					.00+	
11/10/21	D-0208582-	SPARKS, MARK C				
		CITATION (RETURN)			.00	
		CITATION (RETURN)			.00	
		CITATION (RETURN)			.00	
		CITATION (RETURN)			.00	
		FERGUSON, TIMOTHY M.				
		CITATION	OUTSIDE SERVICE		.00 OC	
		CITATION	OUTSIDE SERVICE		.00 OC	
		CITATION	OUTSIDE SERVICE		.00 OC	
					.00+	
11/23/21	D-0208582-	FERGUSON, TIMOTHY M.				
		ORDER (DISMISSAL/NONSUIT-PARTIAL)			.00	
		SPARKS, MARK C			B 0532139	
		DISMISS/NONSUIT (MOTION FOR PARTIAL)			.00	
					.00+	
3/30/22	D-0208582-	FERGUSON, TIMOTHY M.				

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JEFFERSON COUNTY, TEXAS

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Job Name: CML106 DCLASH
Page: 2Date Run: 4/01/22
Time Run: 11:53:58

*** CASE LEDGER ***

Case Number: D-0208582- Filed: 10/12/21 Case Type: CONTRACT Status: PENDING

Plaintiff: RONDA RACCA INDIVIDU
VS Defendant: EFG GENERAL PARTNER CORP ET ALPlaintiff Attorney: SPARKS, MARK C
Defendant Attorney: NO ATTORNEY AT THIS TIME

Date	Cause No.	Name	Credit Amount/ Receipt No/	
Instrument		Debit Description	Debit Amount	Balance
	PETITION (1ST AMENDED)		.00	
		NO ATTORNEY AT THIS TIME	B 0545323	
	NOTICE (APPEARANCE)		.00	
				.00+
3/31/22	D-0208582-	SPARKS, MARK C		
		BANKRUPTCY/AUTOMATIC STAY (NOTICE OF)	.00	
				.00+

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Certified Document Number: 2434521 Total Pages: 2

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ORIGINAL COMPLAINT

DISTRICT CLERK OF
JEFFERSON CO TEXAS
10/12/2021 3:22 PM
JAMIE SMITH
DISTRICT CLERK
D-208582

CAUSE NO. _____

RONDA RACCA, INDIVIDUALLY AND
ON BEHALF OF ALL
SIMILARLY SITUATED PERSONS,

IN THE DISTRICT COURT OF

Plaintiffs,
v.

EFG GENERAL PARTNER CORP.,
EDUCATION FUTURES
MANAGEMENT, COMPANY,
COMPUTER CAREER CENTER, L.P.
D/B/A VISTA COLLEGE, PROSPECT
PARTNERS, LLC, JIM TOLBERT,
MICHAEL MCINERNEY, AND LOUIS
KENTER,

JEFFERSON COUNTY, TEXAS

Defendants.

JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL CLASS-ACTION PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Plaintiff, **RONDA RACCA**, individually and on behalf of all similarly situated persons (as defined in the Class below), complaining of the Defendants **EFG GENERAL PARTNER CORP.** (hereinafter “EFG”), **EDUCATION FUTURES MANAGEMENT, COMPANY** (hereinafter “EFM”), **COMPUTER CAREER CENTER, L.P.** **D/B/A VISTA COLLEGE** (hereinafter “CCC”), **PROSPECT PARTNERS, LLC** (hereinafter “Prospect”), **JIM TOLBERT** (hereinafter “Tolbert”), **MICHAEL MCINERNEY** (hereinafter “McInerney”), **AND LOUIS KENTER** (hereinafter “Kenter”) (all defendants when referred to collectively hereinafter are called “Defendants”), and in support thereof would respectfully show unto this Honorable Court the following:

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JEFFERSON COUNTY, TEXAS

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PARTIES

1. Representative Plaintiff **RONDA RACCA** is a resident of Beaumont, Jefferson County, Texas; thus, Plaintiff **RONDA RACCA** is a Texas citizen. At the time of closure, Plaintiff **RONDA RACCA** was an enrolled student in the cosmetology program at the Vista College located 3871 Stagg Drive, Suite 194, Beaumont, Texas 77701. Plaintiff **RONDA RACCA** was five months away from graduation when her campus closed. Plaintiff **RONDA RACCA**'s tuition was roughly \$15,000 and took out student loans to aid paying said tuition. Plaintiff **RONDA RACCA** paid *at least* \$10,000 in school supplies and textbooks and drove roughly sixty (60) miles to class per day for five (5) days per week.

2. Defendant **CCC** is a corporation organized and existing under the laws of Delaware with a principal place of business in Richardson, Texas. CCC is deemed a Texas citizen and essentially at home in Texas. At all relevant times, **CCC** was a company that provided educational services throughout Texas. **CCC** may be served with citation by serving its registered agent, C T CORPORATION SYSTEM at 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

3. Defendant **EFG** is a corporation organized and existing under the laws of Delaware with a principal place of business in Dallas, Texas. EFG is deemed a Texas citizen and essentially at home in Texas. At all relevant times, **EFG** was a company that provided educational services throughout Texas. **EFG** may be served with citation by serving its registered agent, C T CORPORATION SYSTEM at 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

4. Defendant **EFM** is a corporation organized and existing under the laws of Delaware with a principal place of business in Richardson, Texas. EFM is deemed a Texas citizen and essentially at home in Texas. At all relevant times, **EFM** was a company that provided educational

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services throughout Texas. **EFM** may be served with citation at their principal place of business, 300 N Coit Road, Suite 1400, Richardson, Texas 75080-5459.

5. Defendant **PROSPECT** is a private equity firm that owns Defendants **EFG**, **EFM**, and **CCC**. Defendant **PROSPECT** operated, managed, and funded several campuses throughout the State of Texas, including Vista College located in Beaumont, Jefferson County, Texas. Defendant **PROSPECT** is a foreign corporation, company, partnership, proprietorship, or other entity maintaining its principle office at 200 West Madison Street, Suite 2710, Chicago, IL 60606. Defendant **PROSPECT** at all times material to this action, engaged in business in Texas, as more particularly described below. Defendant **PROSPECT** does not have a designated agent on whom service of citation may be made in this cause. The causes of action asserted arose from, or are connected with, purposeful acts committed by **PROSPECT** in Texas because **PROSPECT** conducted business in Texas. Claims arising from Defendant **PROSPECT**'s business in Texas are the basis of Plaintiffs' cause of action. At all relevant times, **PROSPECT** is a private equity company that manages, operates, and funds companies throughout the United States with several in Texas. Accordingly, Defendant **PROSPECT** may be cited by serving the Secretary of State of Texas.

6. Defendant **TOLBERT** is the Chief Executive Officer of Defendant **EFG**, **EFM**, and/or **CCC**. Defendant **TOLBERT** is and was a Texas citizen at all material times and can be served with process through CCC's registered agent, C T CORPORATION SYSTEM at 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

7. Defendant **MCINERNEY** is the Vice President and Secretary of Defendant **EFG**, **EFM**, and/or **CCC**. Defendant **MCINERNEY** can be served with process through CCC's registered agent, C T Corporation System at 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

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8. Defendant **KENTER** is the Chairman of Defendant **EFG, EFM, and/or CCC**. Defendant **KENTER** is also a Founder of Defendant **PROSPECT**. Defendant **KENTER** can be served with process through CCC's registered agent, C T CORPORATION SYSTEM at 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

DISCOVERY CONTROL PLAN

9. For purposes of Rule 190.4, Plaintiffs allege that this matter is intended to be conducted under Discovery Level 3 in accordance with Texas Rules of Civil Procedure 190.4.

VENUE & JURISDICTION

10. The Court has jurisdiction over this cause of action because the amount in controversy is within the jurisdictional limits of the Court. Although the Plaintiffs realize any ultimate recovery is up to the jury and this Honorable Court, recent "tort reform" forces Plaintiffs—before any discovery is done and at the outset of trial—to specifically and publicly identify a range of damages, or else Plaintiffs are denied various rights including the right to proceed with this case and conduct discovery. Accordingly, and pursuant to that requirement, Plaintiffs plead they are seeking monetary relief over \$1,000,000. Plaintiffs reserve the right to amend their petition during and/or after the discovery process.

11. There is a lack of diversity among the parties since Plaintiffs and Defendants **TOLBERT, EFG, EFM, and CCC** are citizens of the State of Texas. As such, removal of this action to federal court is *per se* improper. Moreover, this is a putative class action in which—(I) greater than two-thirds of the members of all proposed plaintiff classes in the aggregate are citizens of the State in which the action was originally filed (Texas); (II) at least one defendant (specifically, TOLBERT, EFG, EFM, and/or CCC) is a defendant—(aa) from whom significant relief is sought by members of the plaintiff class; (bb) whose alleged conduct forms a significant

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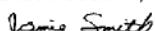
basis for the claims asserted by the proposed plaintiff class; and (cc) who is a citizen of the State in which the action was originally filed; and (III) principal injuries resulting from the alleged conduct or any related conduct of each defendant were incurred in the State in which the action was originally filed (Texas). Accordingly, removal jurisdiction under the so-called “Class Action Fairness Act” (“CAFA”) is improper because, *inter alia*, the local controversy exception under 28 U.S.C. § 1332(d)(4)(A) prohibits removal. Of course, Plaintiff contends none of CAFA’s requirements are met so the exception is not even required, but nonetheless plead CAFA’s local controversy exception bars removal. Defendants TOLBERT, EFG, EFM, and/or CCC are essentially at home in the State of Texas. The assertion of Texas court jurisdiction over these Defendants does not offend the notion of fair play and substantial justice, and Defendants maintained systematic and continuous contacts with the State of Texas, entered into contracts / entered into transactions for business and/or property in the State of Texas, owned assets and/or property in the State of Texas, purposefully directed their activities here in Texas, purposefully availed themselves of the laws of the State of Texas, and Texas courts may properly assert both specific and general jurisdiction over all Defendants.

12. Venue is proper in Jefferson County, Texas, pursuant to Section 15.002 of the TEXAS CIVIL PRACTICE AND REMEDIES CODE in that the cause of action accrued in Jefferson County, Texas. Venue is proper in Jefferson County, Texas, because the incident giving rise to this suit occurred in Jefferson County, Texas. At all times relevant to this case, Defendants had an agent or transacted business in the State of Texas, including Jefferson County, Texas. This Court has personal jurisdiction over Defendants because at all relevant times, they conducted (and continue to conduct) business in Jefferson County, Texas. The cause of action asserted arose from or is substantially connected with purposeful acts committed by the Defendants in Texas because

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Defendants executed their contracts and conducted business within the State of Texas. The Defendants' negligence while conducting their business within the State of Texas is the basis of the Representative Plaintiff's cause of action.

DEFINITION OF CLASS

13. The Proposed Class Members (hereinafter referred to as the "Class" and/or "Class Members") include a class of "Students" who agreed to pay money – out of pocket or through loans – to Defendants in return for an education who were denied their education due to campus closure. This class is further defined as follows:

All students of any Vista College located in Texas who were enrolled at the time Vista College closed on or about October 8, 2021.

14. Exclusions from the Class: The following persons and entities are expressly excluded from the Class (1) Defendants, their affiliates, subsidiaries, agents, representatives, and all other persons acting in concert with it, or under its control, whether directly or indirectly, including any attorney; (2) persons or entities who make a timely election to be excluded from either proposed class; (3) governmental entities; and (4) the Court to which this case is assigned, the judicial officer(s) who preside over this Court, and all personnel of the Court.

CLASS ACTION ALLEGATIONS

15. Pursuant to TEX. R. CIV. P. 42, Plaintiff brings this action as a class action on behalf of herself and all members of the Class of similarly situated persons. Included in the class are students who suffered monetary and non-monetary damages as a result of abrupt, unexcused campus closures that occurred on, or about, October 8, 2021. Certification is appropriate under TEX. R. CIV. P. 42.

16. 42(a)(1) - On information and belief, the proposed Class consists of more than three thousand students who attended Vista Colleges in the State of Texas, the joinder of which in one

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action is impracticable. The precise number and identities of the Class Members are currently unknown to Plaintiff but can be easily derived through discovery and/or Defendants' rosters.

17. 42(a)(2) - Defendants violated the rights and interests of each Class Member in the same manner- to wit, Defendants' employees, agents and servants breached enrollment agreements, failed to properly manage campuses, failed to reasonably maintain and utilize adequate finances, failed to provide their end of the bargain, made misrepresentations to lure student enrollment, made misrepresentations to maintain enrollment, failed to properly teach out their students, committed negligent undertaking, violated the Texas Deceptive Trade Practices-Consumer Protection Act ("DTPA"), fraudulently induced enrollment, made fraudulent misrepresentations, misused funds, and committed other acts and/or omissions among many other uniform wrongful actions described below.

18. Common questions of law and fact predominate over any questions affecting individual Class Members including:

- whether Defendants' wrongful actions described below constitute negligence, gross negligence and/or misrepresentations;
- whether Defendants' wrongful actions and the abrupt campus closures constituted breach of contract;
- whether Defendants' wrongful actions described below constitute negligent undertaking;
- whether Defendants' wrongful actions described below constitute a breach of contract;
- whether Defendants' wrongful actions described below constitute common law fraud;
- whether Defendants' wrongful actions described below constitute violations of the Texas Deceptive Trade Practices-Consumer Protection Act ("DTPA");
- whether Defendants' wrongful actions described below directly or proximately caused Plaintiffs and Class Members to suffer damages;
- whether Plaintiffs and Class Members are entitled to recover actual damages, consequential damages, punitive damages, treble damages, pre-and post- judgment interest, attorneys' fees, litigation expenses, and court costs, and if so, the amount of the recovery.

19. 42(a)(3) – Plaintiff's claims are typical of Class Members' claims because Plaintiff and Class Members are all victims of Defendants' wrongful actions described below.

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20. 42(a)(4) - Plaintiff and her counsel will fairly and adequately represent the interests of Class Members. Plaintiff has no interests antagonistic to, or in conflict with, those of any of the Class Members. Plaintiff's counsel is experienced in leading and prosecuting class actions and complex litigation. A class action is superior to all other available methods for fairly and efficiently adjudicating Plaintiff's and Class Members' claims.

21. 42(b)(1) - Plaintiff and Class Members have been harmed as a direct and proximate result of Defendants' wrongful actions described below. The above-described common questions of law or fact predominate over any questions affecting individual Class Members and a class action is superior to other available methods for the fair and efficient adjudication of this controversy. Litigating this case as a class action is appropriate because (i) it will avoid a multiplicity of suits and the corresponding burden on the courts and Parties, (ii) it will be virtually impossible for all Class Members to intervene as parties-plaintiff in this action, (iii) it will allow numerous persons with claims too small to adjudicate on an individual basis because of prohibitive litigation costs to obtain redress for their injuries, and (iv) it will provide court oversight of the claims process once Defendants' liability is adjudicated.

22. As set forth herein, Plaintiff has met the prerequisites of Rule 42 and believe that a class action is maintainable in accordance therewith.

NATURE OF THE CASE

23. The Representative Plaintiff brings this class action on behalf of herself, and all similarly situated persons who were enrolled at Texas-based Vista College when the campuses abruptly closed on or about October 8, 2021. The gravamen of the complaint is that Defendants fraudulently induced student enrollment, lied or misrepresented material facts to their students,

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failed to provide educational services despite contractual obligations, and failed to provide tuition refunds per their contracts.

24. The Representative Plaintiff, on behalf of herself and the Class members, seeks damages for failing to receive the benefit of the bargain with respect to the contracts in place.

25. The Representative Plaintiff, on behalf of herself and the Class members, wishes to protect his individual claims and cause of action in the alternative to the class action complaint to adhere to the statute of limitations.

BACKGROUND

A. What is Vista College?

26. Defendants EFG, EFM, and/or CCC own and operate seven (7) Vista College ‘ground campuses’ with one (1) in Fort Smith, Arkansas, one (1) in Las Cruces, New Mexico, and five (5) in Texas: Beaumont, El Paso, College Station, Killeen, and Longview. This putative class action is *only* sought for Texas citizens involving the Texas-based Vista College campuses.

27. According to Vista College’s 2021 catalog, Vista College’s mission is “*to provide high quality, specialized career preparation or enhancement. Vista College recognizes this is an era of accelerated changes and accepts the responsibility to aid its students in preparation for these changes by providing quality education and career guidance relative to the demands of an evolving workplace.*” Vista College provided students with dozens of diplomas, license, certificates, and/or degree programs throughout their campuses. The courses, tuition, and fees vary depending on the campus, course title, number of hours, term, and other factors. The following tables illustrate various courses, tuitions rates, and expenses:

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Programs	Credential / Weeks	Credit Hours	Tuition	Textbook	Toolkit ¹	Registration Fee	Total Tuition
Business Administration (Traditional)	Associate / 75	105	\$39,242	\$350	N/A	\$100	\$39,692
Business Administration (Distance Education)	Associate / 75	105	\$39,242	\$350	N/A	\$100	\$39,692
Criminal Justice	Associate / 70	115	\$39,340	\$350	N/A	\$100	\$39,790
Construction Management	Associate / 70	105	\$38,683	\$350	\$600	\$100	\$39,733
Information Technology (IT) (Traditional)	Associate / 70	98	\$37,917	\$325	\$500	\$100	\$38,842
Information Technology (IT) (Distance Education)	Associate / 70	98	\$37,917	\$325	\$500	\$100	\$38,842
Medical Assisting (Traditional)	Associate / 75	105	\$39,350	\$350	N/A	\$100	\$39,800
Medical Assisting (Distance Education)	Associate / 75	105	\$39,350	\$350	N/A	\$100	\$39,800
Medical Insurance Billing & Coding (MIBC) (Traditional)	Associate / 80	111	\$41,975	\$350	N/A	\$100	\$42,425
Medical Insurance Billing & Coding (MIBC) (Distance Education)	Associate / 80	111	\$41,975	\$350	N/A	\$100	\$42,425
Medical Laboratory Technician	Associate / 75	114	\$41,875	\$325	N/A	\$100	\$42,300
Paralegal	Associate / 70	98	\$39,250	\$350	N/A	\$100	\$39,700
Trade Management - Heating, Ventilation, & Air Conditioning (HVAC)	Associate / 80	118	\$40,250	\$350	N/A	\$100	\$40,700
Business Administration (Traditional)	Diploma / 40	52	\$22,200	\$200	N/A	\$100	\$22,500
Business Administration (Distance Education)	Diploma / 40	52	\$22,200	\$200	N/A	\$100	\$22,500
Construction Technology	Diploma / 40	52	\$20,250	\$200	\$600	\$100	\$21,150
Dental Assistant	Diploma / 45	57	\$22,300	\$200	N/A	\$100	\$22,800
Electrical Technician	Diploma / 50	65	\$21,500	\$250	\$773	\$100	\$22,623

Heating, Ventilation, & Air Conditioning (HVAC)	Diploma / 50	65	\$23,800	\$250	\$750	\$100	\$24,100
Information Technology (IT) (Traditional)	Diploma / 40	52	\$20,500	\$175	\$500	\$100	\$21,275
Information Technology (IT) (Distance Education)	Diploma / 40	52	\$20,500	\$175	\$500	\$100	\$21,275
Medical Administrative Assistant (Distance Education)	Diploma / 40	52	\$16,225	\$175	N/A	\$100	\$16,500
Medical Assisting (Traditional)	Diploma / 45	58	\$25,300	\$200	N/A	\$100	\$25,500
Medical Assisting (Distance Education)	Diploma / 45	58	\$25,300	\$200	N/A	\$100	\$25,500
Medical Assisting for Spanish Speakers (Traditional)	Diploma / 45	76	\$25,300	\$200	N/A	\$100	\$25,500
Medical Assisting for Spanish Speakers (Hybrid)	Diploma / 45	76	\$25,200	\$200	N/A	\$100	\$25,500
Medical Insurance Billing & Coding (MIBC) (Traditional)	Diploma / 50	65	\$24,200	\$200	N/A	\$100	\$24,500
Medical Insurance Billing & Coding (MIBC) (Distance Education)	Diploma / 50	65	\$24,200	\$200	N/A	\$100	\$24,500
Pharmacy Technician (Traditional)	Diploma / 50	60	\$14,250	\$150	N/A	\$100	\$14,500
Pharmacy Technician (Hybrid)	Diploma / 50	60	\$14,250	\$150	N/A	\$100	\$14,500
Vocational Nurse (D)	Diploma / 60	73	\$31,000	\$400	N/A	\$100	\$31,500
Vocational Nurse (E)	Diploma / 75	73	\$31,000	\$400	N/A	\$100	\$31,500

Clock Hour Programs	Credential / Weeks	Clock Hours	Tuition	Textbook	Toolkit ¹	Registration Fee	Total Tuition
Cosmetology	Certificate / 40	1,000	\$12,900	\$750	\$1,250	\$100	\$15,000
Cosmetology (teachout)	Certificate / 44 (D) and 60 (E)	1,500	\$19,000	\$750	\$1,250	\$100	\$21,100
Non-Titel IV Programs	Credential / Weeks	Credit Hours	Tuition	Textbook	Toolkit	Registration Fee	Total Tuition
Nurse Aide Training	Certificate / 5	4	\$750	N/A	N/A	N/A	\$750
Phlebotomy for Healthcare Professionals Seminar	Certificate / 2.5	3	\$500	N/A	N/A	N/A	\$500

¹ This chart is from Vista College's 2021 Texas Student Catalog.

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28. Defendant Tolbert was the Chief Executive Officer of Vista College at the time of closure. Upon reason and belief, Defendant Tolbert communicated with the students – both personally and/or in the Student Catalog:

Welcome from the Chief Executive Officer

Vista College has just completed its fourteenth year of operation, and it gives me a chance to reflect on our success. Success doesn't just happen. Success is the result of a plan that is made and followed. Unfortunately, too many students have been led to believe that all they need for a successful and happy future is a diploma. This belief has resulted in disappointment for hundreds of capable graduates. Today it is important that every person be self-reliant. Our personal and national economies demand it. How then should people plan to assure themselves the greatest possibilities for happy and successful futures? There are three simple but vitally related factors that are essential but too frequently ignored: interest, demand and potential growth.

The most important item to remember in planning your future is that you must start with your interests. If you are interested in something, you will enjoy learning about it today and doing it tomorrow. Once you've spent your time and money on education, it is important there be a demand for the services in which you were trained. Finally, explore the growth potential in the field you select and be sure the field will meet your expectations. Ambitious men and women properly trained do not want to stagnate; they want to progress and grow.

The entire structure of our busy world depends largely upon properly trained medical, trades and office personnel for successful operation. By recognizing the need to continue your education, you have taken the first step in becoming a marketable individual. You have recognized the need to possess certain necessary skills if you are to compete in the rapidly changing job market. Business and industry thrives because of motivated people like you who want to contribute to the growth of our nation.

Vista College provides students with the opportunity to learn traditional concepts in the areas of medicine, trades, and business. I personally challenge you to be the best that you can be. Not only while attending Vista College, but also when you enter the job market as a graduate.

At Vista College, students are in a unique community. Our philosophy is that each student is an integral part in the success of our school. Every student has individual needs and wants. We will treat you with the respect and dignity you deserve. Our goal is to make every student be proud to be a part of Vista College. Our rewards will come from your accomplishments and success obtained from your education. We want to be your educational family. Remember, you are the school!

If you consider yourself a motivated individual who sees the world as exciting and challenging, I invite you to explore this catalog and consider Vista College as your means to become an integral part of our ever-changing and competitive world.

ALL INFORMATION CONTAINED IN THIS STUDENT CATALOG IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE



Jim Tolbert
Chief Executive Officer

2

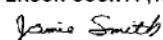
29. Tolbert made other representations (indirectly or directly) to the students, through direct or school communications, about students graduating and receiving the services for which Plaintiff and others paid, but did not receive, the actual services or benefit of the bargain.

² (emphasis added). *Id.*

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b. The Closure of Vista College

30. In August 2021, Defendants announced its plans to stop enrollment of new students – the decision to transition to ‘online only’ was made, in part, because of inadequate finances, student population decline, changing regulations, and mismanagement. As a result of this ‘fundamental shift’, Defendants’ executives perpetrated an email message to its students that – in part – provided: “*We will continue to offer the courses you need to graduate from your programs, including students who started their programs in August 2021... Most students in good academic standing who are currently active at the campuses will have the opportunity to complete their programs and should not experience significant changes to their educational experience. You will continue to receive quality academic programs academic, financial aid, student services and career placement support.*” Upon information and belief, all Defendants—including Tolbert—approved and/or participated in these communications.

31. Also, in August 2021, Defendant Tolbert held a Zoom meeting with faculty members at each campus. In said meeting, Defendant Tolbert informed the majority of faculty members that they were furloughed effective immediately. Despite knowing their schools were in clear and present danger of ceasing operation, Defendant Tolbert doubled down on College Station’s local news station, KBTX, by stating, “the reason we did that [suspended in-person enrollment for ground campuses] is to make sure we had all the financial resources at our disposal to make sure the students currently enrolled in school get exactly what they paid for.”³ That, of course, did not happen as Defendants shut down all campuses and programs without notice to students on October 8, 2021. Tolbert had made yet another promise to the students that he and Defendants failed to keep.

³ See <https://www.kbtx.com/2021/08/10/vista-college-suspends-in-person-enrollment-furloughs-employees-across-texas/>.

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32. Defendants' decision to abruptly close their campuses down betrayed thousands of students and teachers. Students were stripped of their opportunity to complete their programs. These students paid thousands of dollars towards their programs and/or took out student loans and remain in debt. Thus, many of these students still owe money to their loan servicer(s) despite losing the opportunity to obtain their degree, certificate, and/or diploma. Teachers unexpectedly lost their employment.

33. The *same week as campus closures*, The Federal Trade Commission placed Vista College, along with dozens of other for-profit schools, on their "List of October 2021 Recipients of the FTC's Notice of Penalty Offenses in the Higher Education Marketplace." The Commission stated in a press release, "The Federal Trade Commission put 70 for-profit higher education institutions on notice that the agency is cracking down on any false promises they make about their graduates' job and earnings prospects and other outcomes and will hit violators with significant financial penalties."⁴ The FTC Chair stated in said press release, "'For too long, unscrupulous for-profit schools have preyed on students with impunity, facing no penalties when they defraud their students and drive them into debt,' said FTC Chair Lina M. Khan. 'The FTC is resurrecting a dormant authority to deter wrongdoing and hold accountable bad actors who abuse students and taxpayers.'"⁵

BRIEF SUMMARY OF THE CLAIMS AND REMEDIES SOUGHT

34. Defendants' denial and refusal to remain open long enough for Plaintiff and the Proposed Class to complete their program and/or course constitutes a breach of contract because Defendants, through the contract with Plaintiff and the Proposed Class, were contractually obligated to provide what was paid for.

⁴ See <https://www.ftc.gov/news-events/press-releases/2021/10/ftc-targets-false-claims-profit-colleges>.

⁵ *Id.*

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35. Defendants' denial and refusal to (1) remain open long enough for Plaintiff and the Proposed Class to complete their program and/or course, and (2) refund Plaintiff and the Proposed Class' tuition costs constitute a breach of contract because Defendants, through the contract with Plaintiff and the Proposed Class, were contractually obligated to provide what was paid for. Defendants failed to honor and breached its contractual obligations to Plaintiff and the Proposed Class, resulting in harm and damages to Plaintiff and the Proposed Class.

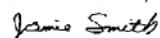
36. In refusing to (1) remain open long enough for Plaintiff and the Proposed Class to complete their program and/or course, and (2) refund Plaintiff and the Proposed Class's tuition costs, Defendants breached the covenant of good faith and fair dealing and acted in bad faith towards Plaintiff and the Proposed Class. Defendants' conduct demonstrates that their denial of tuition refund was prompted not by honest mistake, bad judgment or negligence, but rather by conscious and deliberate conduct which unfairly frustrated the agreed common purposes and disappointed the reasonable expectations of consumers/students such as Plaintiff and the Proposed Class thereby depriving Plaintiff and the Proposed Class of the benefits of their course and/or program they purchased in reliance on Defendants' representations, advertisements, and marketing.

37. As shown, Defendants negligently and/or intentionally lead Plaintiff and the Proposed Class to believe they would be able to complete their programs and receive their diplomas, degrees and/or certificate before closure. Moreover, Defendants negligently and/or intentionally lead Plaintiff and the Proposed Class to believe *if* the campus closed down, Defendants would reimburse Plaintiff and the Proposed Class for all costs. Plaintiff and the Proposed Class relied on those representations and continued to pay their tuition and other educational costs. Defendants then knowingly and intentionally closed down all campuses,

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denying Plaintiff and the Proposed Class their opportunity to complete their course and/or program. Plaintiff and the Proposed Class were injured as a result of Defendants' fraudulent behavior.

38. Through written materials and oral communications, Defendants represented (1) Vista College would continue to offer Plaintiff and the Proposed Class the courses needed to graduate; (2) Plaintiff and the Proposed Class would not experience significant changes to their educational experience; (3) Plaintiff and the Proposed Class would be able to complete their programs before campus closures and/or graduate; (4) Plaintiff and the Proposed Class would obtain employment as a result of course and/or program completion; (5) in the event of an early campus closure, Defendants would reimburse Plaintiff and the Proposed Class their tuition and costs; (6) guaranteed or promised jobs and/or job placement that never occurred and/or (7) guaranteed or promised salary levels or ranges that never materialized; (8) failed and/or refused to make credits transferrable and/or otherwise ensure that those courses completed or near completion could be adequately transferred or completed at other equivalent institutions with a accreditation; and (9) other acts and/or omissions to be stated after discovery or at the time of trial. Defendants' misrepresentations were made in the course of Defendants' business and were made with a purpose to affect the financial decisions of Plaintiff and the Proposed Class (all of whom are "consumers" under DTPA and other Texas law). Defendants' misrepresentations were objectively material to Plaintiff, and the Proposed Class, and the reasonable consumer. Defendants failed to exercise reasonable care in communicating these misrepresentations and Plaintiff and the Proposed Class were damaged as a proximate cause thereof. Importantly, Defendants benefitted monetarily as a result of these misrepresentations.

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39. A fiduciary duty, created by law and/or contract, existed between Plaintiff and the Proposed Class and Defendants at the time of campus closures. Defendants breached their fiduciary duty by their actions set forth herein and Plaintiff and the Proposed Class were injured as a result. Defendants benefitted from their breach by collecting the tuition of Plaintiff and the Proposed Class, then refusing to pay it back, and closing down all campuses to save overhead expenses.

40. Defendants committed several violations under the Texas Deceptive Trade Practices-Consumer Protection Act (“DTPA”). At all material times, Plaintiff and the Proposed Class constitute “consumers” as defined in TEX. BUS. & COM. CODE §17.46(A)(4). Defendants knowingly and intentionally committed these DTPA violations. As a result of Defendants’ noncompliance with the DTPA, Plaintiff and the Proposed Class are entitled to economic damages, which include the amount of the benefits wrongly withheld. For knowing conduct violations, Plaintiff and the Proposed Class ask for three times their economic damages. For intentional conduct violations, Plaintiff and the Proposed Class are entitled to their economic damages, and Plaintiffs ask for three times their amount of economic damages. Plaintiff and the Proposed Class are also entitled to court costs and attorney’s fees. TEX. BUS. & COM. CODE ANN. §17.50(b)(1).

41. Defendants constitute as an “enterprise” under the Federal “RICO” Act and engaged in a pattern of racketeering activities through wires, radio, television promotions, internet marketing, and U.S. mail causing damage and injury to Plaintiff and the Proposed Class. Defendants violated Title 18 U.S.C. Section 1962(a) by receiving money directly and indirectly from a pattern of racketeering activity and used or invested, directly or indirectly, a part of such income or the proceeds of such income, in acquisition of an interest in, or the establishment or operation of, an enterprise which is engaged in, or the activities of which affect, interstate or

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foreign commerce. As a proximate and direct result of Defendants' wrongful acts and conduct, Plaintiff and the Proposed Class have sustained damages. Plaintiff and the Proposed Class defrauded by Defendants' scheme and fraud are entitled to treble damages, costs of suit, and reasonable attorneys' fees pursuant to Title 18 U.S.C., Section 1964(c).

42. As a result of the conduct set forth herein, Defendants have been, and will continue to be unjustly enriched at the expense of Plaintiff and the Proposed Class.

FIRST GROUP OF CAUSES OF ACTION

**(Breach of Contract including the Breach of Expressed Terms and the Implied Terms –
Breach of the Covenant of Good Faith and Fair Dealing)**

43. Paragraphs 1 through 42 are incorporated by reference.

44. Contracts existed between Plaintiff and the Proposed Class and Defendants. Plaintiff and the Proposed Class entered into agreements with Vista College for various programs and/or courses.

45. Under each contract, Plaintiff and the Proposed Class were required to pay the amount of each program and/or course referenced in each contract. Plaintiff and the Proposed Class's contracts were in full force and effect at the time Defendants closed down their campuses.

46. All conditions precedent to Defendants' obligation were satisfied.

47. Defendants breached the terms of their contracts with Plaintiff and the Proposed Class by failing to provide them with the promised products and services as contracted. Moreover, Defendants' failure to provide adequate refunds constitute as a breach.

48. Plaintiff and the Proposed Class have sustained actual damages as the result of Defendants' breach of contract.

49. In misrepresenting through its representations that Vista College would remain open through Plaintiff and the Proposed Class's scheduled curriculum, and in abruptly closing

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down all of its' campuses without ensuring a smooth transition of credits or courses to other schools, Defendants breached and failed to honor its implied covenant of good faith and fair dealing under Texas law.

50. The law implies a covenant of good faith and fair dealing in every contract. Defendants violated this covenant of good faith and fair dealing in its contract with Plaintiff and the Proposed Class by, *inter alia*, misrepresenting to Plaintiff and the Proposed Class that their campuses would remain open (at least) through the courses currently in progress. Despite these representations, Defendants closed down all campuses with no forewarnings.

51. Defendants breached their duty of good faith and fair dealing and acted in bad faith in the following respects:

- a. Representing through its advertising, marketing, and other representations that the campuses would not close down until (at the earliest) the completion of Plaintiff and the Proposed Class's curriculum.
- b. Acting in such a manner as to damage Plaintiff and the Proposed Class and/or committing acts which unjustifiably denied Plaintiff and the Proposed Class the benefits to which they were entitled under the Contract.
- c. Failing to provide full and complete training and/or education, as stated in the Contract.
- d. Failing to provide full reimbursement(s) for any and all tuition and costs to Plaintiff and the Proposed Class after abruptly closing down all campuses.
- e. Failing to provide adequate notice to Plaintiff and the Proposed Class that all campuses would be closed down.

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f. Failing to attempt in good faith to compromise Plaintiff and the Proposed Class for their lost money and/or time towards their program(s).

g. Failing to ensure a smooth transition of Plaintiff's and the Proposed Class' credits or courses to other institutions.

52. Defendants' bad-faith denial of Plaintiff and the Proposed Class's training and/or education was done as part of Defendants' business practices. Defendants' wrongful conduct was authorized and ratified by its management and was done with disregard of Plaintiff and the Proposed Class's rights. Such conduct was done to take advantage of the financially weaker or vulnerable position of Plaintiff and the Proposed Class and constitutes a pattern or practice of misconduct through trickery or deceit to deny Plaintiff and the Proposed Class the benefit of their training and/or education.

53. Plaintiff and the Proposed Class performed all, or substantially all, of the significant duties required under their agreements with Defendants.

54. Defendants did not provide and/or unfairly interfered with the rights of Plaintiff and the Proposed Class to receive the benefits under their agreements with Defendants.

55. Defendants acted with oppression, fraud and malice, including with conscious and willful disregard of the rights of Plaintiff and the Proposed Class and to their harm and detriment. Plaintiff and the Proposed Class are accordingly entitled to recovery of exemplary and punitive damages.

SECOND GROUP OF CAUSES OF ACTION
(Fraud, Misrepresentation Deceit, *Quantum Meruit*, and Promissory Estoppel)

56. Paragraphs 1 through 55 are incorporated by reference.

57. Defendants intentionally, through advertisements, documents, oral statements, and promotion, lead Plaintiff and the Proposed Class to believe that they would be able to complete

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their programs, receive their diploma, degrees and/or certificates, and obtain employment as a result. Defendants told Plaintiff and the Proposed Class that their campuses would be open, at least, through the completion of the paid-for programs and/or courses. These representations were material and, of course, false.

58. Plaintiff and the Proposed Class relied on those representations. Moreover, Defendants intended for Plaintiff and the Proposed Class to rely on those representations in order to ‘dupe’ them into purchasing their programs and/or courses before closing down all operations.

59. Plaintiff and the Proposed Class were injured as a result of those false and misleading representations.

60. Defendants knowingly and intentionally denied Plaintiff and the Proposed Class their programs, diplomas, degrees and/or certificates, and employment when Defendants closed down all of its campuses the same week the Federal Trade Commission placed them on their “List of October 2021 Recipients of the FTC’s Notice of Penalty Offenses in the Higher Education Marketplace.”

61. Defendants’ conduct constitutes, *inter alia*, fraud and deceit.

62. For Defendants’ fraud and deceit, Plaintiff and the Proposed Class are entitled to recovery of exemplary and punitive damages.

63. Through written materials and oral discussions, Defendants guaranteed their consumers their campuses would remain open through (at least) the completion of their curriculum.

64. Defendants’ misrepresentations were made in the course of the Defendants’ business.

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65. Defendants misrepresentations were supplied and/or conveyed for the purpose of affecting Plaintiff and the Proposed Class's financial decisions.

66. Defendants failed to exercise reasonable care and/or diligence in communicating their misrepresentations.

67. Defendants' misrepresentations were objectively material to the reasonable consumer, and therefore reliance upon such representations may be presumed as a matter of law.

68. Defendants intended that Plaintiff and the Proposed Class would rely on its misrepresentations.

69. Plaintiff and the Proposed Class reasonably and justifiably relied to their detriment on Defendants' misrepresentations.

70. As a proximate result of Defendants' misrepresentations, Plaintiff and the Proposed Class were damaged in an amount to be proven at trial.

71. Plaintiff and the Proposed Class provided valuable services and/or materials to Defendants who accepted the services and/or materials. Under the circumstances herein, Defendants were notified that Plaintiff and the Proposed Class expected to be fully reimbursed and/or provided their programs and/or courses.

72. Defendants made multiple promises to Plaintiff and the Proposed Class described herein.

73. Plaintiff and the Proposed Class reasonably and substantially relied on the promise(s) to their detriment.

74. Plaintiff and the Proposed Class and the Proposed Class's reliance was foreseeable by Defendants.

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75. Injustice can be avoided only by enforcing Defendants' promise(s) to Plaintiff and the Proposed Class.

76. Defendants directly benefitted from, and were unjustly enriched by, their misrepresentations.

77. All the foregoing plead and stated in this petition constitute fraud, misrepresentation / deceit, *quantum meruit*, and promissory estoppel, for which claims are brought.

THIRD GROUP OF CAUSES OF ACTION
(Negligent and Intentional Misrepresentation)

78. Paragraphs 1 through 77 are incorporated by reference.

79. Through written materials and oral discussions, Defendants represented, in part, they were remaining open long enough for Plaintiff and the Proposed Class to complete their program and/or course and there would be no significant change to their educational experience.

80. Defendants' misrepresentations were made in the course of the Defendants' business.

81. Defendants' misrepresentations were supplied and/or conveyed for the purpose of affecting Plaintiff and the Proposed Class's financial decisions.

82. Defendants failed to exercise reasonable care and/or diligence in communicating their misrepresentations, and/or made them intentionally.

83. Defendants' misrepresentations were objectively material to the reasonable consumer, and therefore reliance upon such representations may be presumed as a matter of law.

84. Defendants intended that Plaintiff and the Proposed Class would rely on their misrepresentations.

85. Plaintiff and the Proposed Class reasonably and justifiably relied to their detriment on Defendants' misrepresentations.

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86. As a proximate result of Defendants' negligent and/or intentional misrepresentations, Plaintiff and the Proposed Class were damaged in an amount to be proven at trial.

87. Defendants directly benefitted from, and were unjustly enriched by, their misrepresentations.

FOURTH CAUSE OF ACTION
(Breach of fiduciary duty)

88. Paragraphs 1 through 87 are incorporated by reference.

89. At all times relevant to this case, a fiduciary relationship created by law and/or contract existed between Plaintiff (and the Proposed Class) and Defendants.

90. Defendants breached their fiduciary duties to Plaintiff and the Proposed Class when they abruptly closed down their campuses with no warning to Plaintiff and the Proposed Class. The students were stripped of their opportunity to complete and/or continue their programs.

91. Defendants' breach resulted in injury to Plaintiff and the Proposed Class. Plaintiff and the Proposed Class lost thousands of dollars, promised jobs, education, and their future.

92. Defendants' benefitted from their breach by collecting the tuition paid for by Plaintiff and the Proposed Class, while failing to provide the paid-for product and cutting overhead by closing down all operations.

FIFTH CAUSE OF ACTION
(Violations of the Texas Deceptive Trade Practices Consumer Protection Act ("DTPA"))

93. Paragraphs 1 through 92 are incorporated by reference.

94. Defendants' conduct constitutes multiple violations of the Texas Deceptive Trade Practices-Consumer Protection Act ("DTPA"). TEX. BUS. & COM. CODE §17.41-17.63. All violations of this chapter are made actionable by TEX. BUS. & COM. CODE §17.50(a)(1).

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95. At all material times, Plaintiff and the Proposed Class and others similarly situated in Texas, were “consumers” as defined in TEX. BUS. & COM. CODE §17.45(4).

96. Defendants’ failure to disclose information concerning goods or services, as described above, which was known at the time of the transaction, and which was intended to induce Plaintiff and the Proposed Class into a transaction into which Plaintiff and the Proposed Class would not have entered had the information been disclosed, constitutes a false, misleading, or deceptive act and practice. TEX. BUS. & COM. CODE §17.46(b)(2).

97. Defendants’ misrepresentations and omissions, as described above, caused confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services, constitutes a false, misleading, or deceptive act and practice. TEX. BUS. & COM. CODE §17.46(b)(7).

98. Defendants’ advertising goods or services with intent not to sell them as advertised, constitutes as a false, misleading, or deceptive act and practice. TEX. BUS. & COM. CODE §17.46(b)(9).

99. Defendants’ misrepresentations that an agreement confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law, constitutes as a false, misleading, or deceptive act and practice. TEX. BUS. & COM. CODE §17.46(b)(12).

100. Defendants’ failure to disclose information concerning goods or services, as described above, which was known at the time of the transaction, and which was intended to induce Plaintiff and the Proposed Class into a transaction into which Plaintiff and the Proposed Class would not have entered had the information been disclosed, constitutes a false, misleading, or deceptive act and practice. TEX. BUS. & COM. CODE §17.46(b)(24).

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101. As a result of Defendants' noncompliance with the DTPA, Plaintiff and the Proposed Class are entitled to economic damages, which include the amount of the benefits wrongfully withheld.

102. For knowing conduct violations, with regard to these breaches of duty, Plaintiff and the Proposed Class ask for three times their economic damages.

103. For intentional conduct violations, with regard to these breaches of duty, Plaintiff and the Proposed Class are entitled to their economic damages, and Plaintiff and the Proposed Class ask for three times their amount of economic damages. Plaintiff and the Proposed Class are also entitled to court costs and attorney's fees. TEX. BUS. & COM. CODE ANN. §17.50(b)(1).

SIXTH CAUSE OF ACTION
(Unjust Enrichment)

104. Paragraphs 1 through 103 are incorporated by reference.

105. A party cannot induce, accept or encourage another to furnish or render something of value to such party and avoid payment for the value received.

106. As a result of the conduct described above, Defendants have been, and will continue to be, unjust enriched at the expense of Plaintiff and the Proposed Class.

107. Defendants have received, and are holding, funds belonging to Plaintiff and the Proposed Class which in equity Defendants should not be permitted to keep but should be required to refund Plaintiff and the Proposed Class.

DEMAND FOR TRIAL BY JURY

108. Plaintiff and the Proposed Class hereby demand trial by jury on all claims for which the law provides a right to jury trial.

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PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Plaintiff and the Proposed Class herein, on behalf of themselves and those similarly situated, respectfully pray:

Claims of Proposed Class

- a. That the Court enter an order certifying this action as a Class Action in accordance with Rule 42;
- b. That Defendants be cited to appear and answer herein;
- c. For an order requiring Defendants to disclose to Plaintiff's counsel the name, address, telephone number, and school location of all persons potentially within this Class as described hereinabove;
- d. For an order requiring Defendants, at Defendants' expense, to bear the expense of the preparation, mailing or other means of transmittal, and all administrative costs associated with the provision of notice (the substance of such notice to be approved by the Court) to potential members of the Class as described hereinabove;
- e. For an order awarding all relief deemed appropriate and proper by the Court pursuant to Texas law, and any other applicable law;
- f. For an injunction and order requiring Defendants to immediately cease and desist from destroying or deleting any student or other relevant information, or making further misrepresentations to Plaintiff and the proposed class;
- g. For an order awarding Plaintiffs attorneys' fees and costs from Defendants;
- h. For an order awarding Plaintiff and the Proposed Class general, special, compensatory, nominal, treble, and/or punitive damages against Defendants;
- i. For an order awarding Plaintiff and the Proposed Class pre- and post-judgment interest;

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- j. For an order providing such further relief, including if applicable injunctive relief, restitution, disgorgement and return of funds collected, and all such other and additional relief as this Court deems proper, at law or in equity, to which Plaintiffs or the proposed class may justly be entitled; and
- k. For money damages in an amount to be determined by a jury;

Individual Claims of Plaintiff

- a. For general and special damages according to proof at trial;
- b. For general, special, nominal, and compensatory damages including, but not limited to, out-of-pocket expenses, contractual damages, lost wages and/or profits, travel and/or school-enrollment expenses, mental and emotional distress in an amount according to proof, and all other damages available under Texas law;
- c. For punitive and/or treble damages to be awarded to Plaintiffs in an amount appropriate to punish and set an example of Defendants to deter further misconduct;
- d. For interest on the actual damages at the legal rate from October 12, 2021;
- e. For costs of suit and reasonable attorneys' fees as permitted by law; and
- f. For such other and further relief, including if applicable injunctive relief, restitution, return of tuition, and further relief as the Court may deem just and proper;
- g. For an order providing such further relief, including if applicable injunctive relief, restitution, disgorgement and return of funds collected, and all such other and additional relief as this Court deems proper, at law or in equity, to which Plaintiffs or the proposed class may justly be entitled; and
- h. For money damages in an amount to be determined by a jury.

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Respectfully submitted,
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FIRST AMENDED COMPLAINT

DISTRICT CLERK OF
JEFFERSON CO TEXAS
3/30/2022 8:20 AM
JAMIE SMITH
DISTRICT CLERK
D-208582

CAUSE NO. D-208582

RONDA RACCA, INDIVIDUALLY ON §
BEHALF OF ALL §
SIMILARLY SITUATED PERSONS, §

IN THE DISTRICT COURT OF

Plaintiffs, §
v. §
§
EFG GENERAL PARTNER CORP., §
EDUCATION FUTURES §
MANAGEMENT, COMPANY, §
EDUCATION FUTURES GROUP, LLC, §
COMPUTER CAREER CENTER, L.P. §
D/B/A VISTA COLLEGE, PROSPECT §
PARTNERS, LLC, JIM TOLBERT, §
MICHAEL MCINERNEY, AND LOUIS §
KENTER, §

JEFFERSON COUNTY, TEXAS

Defendants. §

136TH JUDICIAL DISTRICT

PLAINTIFF'S FIRST AMENDED CLASS-ACTION PETITION

TO THE HONORABLE JUDGE BAYLOR WORTHAM:

COMES NOW Plaintiff, **RONDA RACCA**, individually and on behalf of all similarly situated persons (as defined in the Class below), complaining of the Defendants **EFG GENERAL PARTNER CORP.** (hereinafter “EFG General”), **EDUCATION FUTURES GROUP, LLC** (hereinafter “EFG”), **EDUCATION FUTURES MANAGEMENT, COMPANY** (hereinafter “EFM”), **COMPUTER CAREER CENTER, L.P.** **D/B/A VISTA COLLEGE** (hereinafter “CCC”), **PROSPECT PARTNERS, LLC** (hereinafter “Prospect”), **JIM TOLBERT** (hereinafter “Tolbert”), **MICHAEL MCINERNEY** (hereinafter “McInerney”), **AND LOUIS KENTER** (hereinafter “Kenter”) (all defendants when referred to collectively hereinafter are called “Defendants”), and in support thereof would respectfully show unto this Honorable Court the following:

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PARTIES

1. Representative Plaintiff **RONDA RACCA** is a resident of Beaumont, Jefferson County, Texas; thus, Plaintiff **RONDA RACCA** is a Texas citizen. At the time of closure, Plaintiff **RONDA RACCA** was an enrolled student in the cosmetology program at the Vista College located 3871 Stagg Drive, Suite 194, Beaumont, Texas 77701. Plaintiff **RONDA RACCA** was five months away from graduation when her campus closed. Plaintiff **RONDA RACCA**'s tuition was roughly \$15,000 and took out student loans to aid paying said tuition. Plaintiff **RONDA RACCA** paid *at least* \$10,000 in school supplies and textbooks and drove roughly sixty (60) miles to class per day for five (5) days per week.

2. Defendant **CCC** is a corporation organized and existing under the laws of Delaware with a principal place of business in Richardson, Texas. CCC is deemed a Texas citizen and essentially at home in Texas. At all relevant times, **CCC** was a company that provided educational services throughout Texas. **CCC** may be served with citation by serving its registered agent, C T CORPORATION SYSTEM at 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

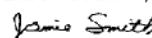
3. Defendant **EFG** is a corporation organized and existing under the laws of Delaware with a principal place of business in Dallas, Texas. EFG is deemed a Texas citizen and essentially at home in Texas. At all relevant times, **EFG** was a company that provided educational services throughout Texas. **EFG** may be served with citation at their principal place of business, 300 N Coit Road, Suite 1400, Richardson, Texas 75080-5459.

4. Defendant **EFG General** is a corporation organized and existing under the laws of Delaware with a principal place of business in Dallas, Texas. EFG General is deemed a Texas citizen and essentially at home in Texas. At all relevant times, **EFG General** was a company that provided educational services throughout Texas. **EFG General** may be served with citation by

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serving its registered agent, C T CORPORATION SYSTEM at 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

5. Defendant **EFM** is a corporation organized and existing under the laws of Delaware with a principal place of business in Richardson, Texas. EFM is deemed a Texas citizen and essentially at home in Texas. At all relevant times, **EFM** was a company that provided educational services throughout Texas. **EFM** may be served with citation at their principal place of business, 300 N Coit Road, Suite 1400, Richardson, Texas 75080-5459.

6. Defendant **PROSPECT** is a private equity firm that owns Defendants **EFG, EFG General EFM, and CCC**. Defendant **PROSPECT** operated, managed, and funded several campuses throughout the State of Texas, including Vista College located in Beaumont, Jefferson County, Texas. Defendant **PROSPECT** is a foreign corporation, company, partnership, proprietorship, or other entity maintaining its principle office at 200 West Madison Street, Suite 2710, Chicago, IL 60606. Defendant **PROSPECT** at all times material to this action, engaged in business in Texas, as more particularly described below. Defendant **PROSPECT** does not have a designated agent on whom service of citation may be made in this cause. The causes of action asserted arose from, or are connected with, purposeful acts committed by **PROSPECT** in Texas because **PROSPECT** conducted business in Texas. Claims arising from Defendant **PROSPECT**'s business in Texas are the basis of Plaintiffs' cause of action. At all relevant times, **PROSPECT** is a private equity company that manages, operates, and funds companies throughout the United States with several in Texas. Accordingly, Defendant **PROSPECT** may be cited by serving the Secretary of State of Texas.

7. Defendant **TOLBERT** is the Chief Executive Officer of Defendant **EFG, EFG General, EFM, and/or CCC**. Defendant **TOLBERT** is and was a Texas citizen at all material

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times and can be served with process through CCC's registered agent, C T CORPORATION SYSTEM at 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

8. Defendant **MCINERNEY** is the Vice President and Secretary of Defendant **EFG**, **EFG General**, **EFM**, and/or **CCC**. Defendant **MCINERNEY** can be served with process through CCC's registered agent, C T Corporation System at 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

9. Defendant **KENTER** is the Chairman of Defendant **EFG**, **EFG General**, **EFM**, and/or **CCC**. Defendant **KENTER** is also a Founder of Defendant **PROSPECT**. Defendant **KENTER** can be served with process through CCC's registered agent, C T CORPORATION SYSTEM at 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

DISCOVERY CONTROL PLAN

10. For purposes of Rule 190.4, Plaintiffs allege that this matter is intended to be conducted under Discovery Level 3 in accordance with Texas Rules of Civil Procedure 190.4.

VENUE & JURISDICTION

11. The Court has jurisdiction over this cause of action because the amount in controversy is within the jurisdictional limits of the Court. Although the Plaintiffs realize any ultimate recovery is up to the jury and this Honorable Court, recent "tort reform" forces Plaintiffs—before any discovery is done and at the outset of trial—to specifically and publicly identify a range of damages, or else Plaintiffs are denied various rights including the right to proceed with this case and conduct discovery. Accordingly, and pursuant to that requirement, Plaintiffs plead they are seeking monetary relief over \$1,000,000. Plaintiffs reserve the right to amend their petition during and/or after the discovery process.

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12. There is a lack of diversity among the parties since Plaintiffs and Defendants **TOLBERT, EFG, EFG General EFM, and CCC** are citizens of the State of Texas. As such, removal of this action to federal court is *per se* improper. Moreover, this is a putative class action in which—(I) greater than two-thirds of the members of all proposed plaintiff classes in the aggregate are citizens of the State in which the action was originally filed (Texas); (II) at least one defendant (specifically, TOLBERT, EFG, EFG General , EFM, and/or CCC) is a defendant—(aa) from whom significant relief is sought by members of the plaintiff class; (bb) whose alleged conduct forms a significant basis for the claims asserted by the proposed plaintiff class; and (cc) who is a citizen of the State in which the action was originally filed; and (III) principal injuries resulting from the alleged conduct or any related conduct of each defendant were incurred in the State in which the action was originally filed (Texas). Accordingly, removal jurisdiction under the so-called “Class Action Fairness Act” (“CAFA”) is improper because, *inter alia*, the local controversy exception under 28 U.S.C. § 1332(d)(4)(A) prohibits removal. Of course, Plaintiff contends none of CAFA’s requirements are met so the exception is not even required, but nonetheless plead CAFA’s local controversy exception bars removal. Defendants TOLBERT, EFG, EFG General, EFM, and/or CCC are essentially at home in the State of Texas. The assertion of Texas court jurisdiction over these Defendants does not offend the notion of fair play and substantial justice, and Defendants maintained systematic and continuous contacts with the State of Texas, entered into contracts / entered into transactions for business and/or property in the State of Texas, owned assets and/or property in the State of Texas, purposefully directed their activities here in Texas, purposefully availed themselves of the laws of the State of Texas, and Texas courts may properly assert both specific and general jurisdiction over all Defendants.

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13. Venue is proper in Jefferson County, Texas, pursuant to Section 15.002 of the TEXAS CIVIL PRACTICE AND REMEDIES CODE in that the cause of action accrued in Jefferson County, Texas. Venue is proper in Jefferson County, Texas, because the incident giving rise to this suit occurred in Jefferson County, Texas. At all times relevant to this case, Defendants had an agent or transacted business in the State of Texas, including Jefferson County, Texas. This Court has personal jurisdiction over Defendants because at all relevant times, they conducted (and continue to conduct) business in Jefferson County, Texas. The cause of action asserted arose from or is substantially connected with purposeful acts committed by the Defendants in Texas because Defendants executed their contracts and conducted business within the State of Texas. The Defendants' negligence while conducting their business within the State of Texas is the basis of the Representative Plaintiff's cause of action.

DEFINITION OF CLASS

14. The Proposed Class Members (hereinafter referred to as the "Class" and/or "Class Members") include a class of "Students" who agreed to pay money – out of pocket or through loans – to Defendants in return for an education who were denied their education due to campus closure. This class is further defined as follows:

All students of any Vista College located in Texas who were enrolled at the time Vista College closed on or about October 8, 2021.

15. Exclusions from the Class: The following persons and entities are expressly excluded from the Class (1) Defendants, their affiliates, subsidiaries, agents, representatives, and all other persons acting in concert with it, or under its control, whether directly or indirectly, including any attorney; (2) persons or entities who make a timely election to be excluded from either proposed class; (3) governmental entities; and (4) the Court to which this case is assigned, the judicial officer(s) who preside over this Court, and all personnel of the Court.

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CLASS ACTION ALLEGATIONS

16. Pursuant to TEX. R. CIV. P. 42, Plaintiff brings this action as a class action on behalf of herself and all members of the Class of similarly situated persons. Included in the class are students who suffered monetary and non-monetary damages as a result of abrupt, unexcused campus closures that occurred on, or about, October 8, 2021. Certification is appropriate under TEX. R. CIV. P. 42.

17. 42(a)(1) - On information and belief, the proposed Class consists of more than three thousand students who attended Vista Colleges in the State of Texas, the joinder of which in one action is impracticable. The precise number and identities of the Class Members are currently unknown to Plaintiff but can be easily derived through discovery and/or Defendants' rosters.

18. 42(a)(2) - Defendants violated the rights and interests of each Class Member in the same manner- to wit, Defendants' employees, agents and servants breached enrollment agreements, failed to properly manage campuses, failed to reasonably maintain and utilize adequate finances, failed to provide their end of the bargain, made misrepresentations to lure student enrollment, made misrepresentations to maintain enrollment, failed to properly teach out their students, committed negligent undertaking, violated the Texas Deceptive Trade Practices-Consumer Protection Act ("DTPA"), misused funds, and committed other acts and/or omissions among many other uniform wrongful actions described below.

19. Common questions of law and fact predominate over any questions affecting individual Class Members including:

- whether Defendants' wrongful actions described below constitute (1) negligence; (2) gross negligence; (3) negligent misrepresentations; (4) breach of contract; (5) negligent undertaking; and (6) violations of the Texas Deceptive Trade Practices-Consumer Protection Act ("DTPA");
- whether Defendants' wrongful actions described below directly or proximately caused Plaintiffs and Class Members to suffer damages; and

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- whether Plaintiffs and Class Members are entitled to recover actual damages, consequential damages, punitive damages, treble damages, pre-and post-judgment interest, attorneys' fees, litigation expenses, and court costs, and if so, the amount of the recovery.

20. 42(a)(3) – Plaintiff's claims are typical of Class Members' claims because Plaintiff and Class Members are all victims of Defendants' wrongful actions described below.

21. 42(a)(4) - Plaintiff and her counsel will fairly and adequately represent the interests of Class Members. Plaintiff has no interests antagonistic to, or in conflict with, those of any of the Class Members. Plaintiff's counsel is experienced in leading and prosecuting class actions and complex litigation. A class action is superior to all other available methods for fairly and efficiently adjudicating Plaintiff's and Class Members' claims.

22. 42(b)(1) - Plaintiff and Class Members have been harmed as a direct and proximate result of Defendants' wrongful actions described below. The above-described common questions of law or fact predominate over any questions affecting individual Class Members and a class action is superior to other available methods for the fair and efficient adjudication of this controversy. Litigating this case as a class action is appropriate because (i) it will avoid a multiplicity of suits and the corresponding burden on the courts and Parties, (ii) it will be virtually impossible for all Class Members to intervene as parties-plaintiff in this action, (iii) it will allow numerous persons with claims too small to adjudicate on an individual basis because of prohibitive litigation costs to obtain redress for their injuries, and (iv) it will provide court oversight of the claims process once Defendants' liability is adjudicated.

23. As set forth herein, Plaintiff has met the prerequisites of Rule 42 and believe that a class action is maintainable in accordance therewith.

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NATURE OF THE CASE

24. The Representative Plaintiff brings this class action on behalf of herself, and all similarly situated persons who were enrolled at Texas-based Vista College when the campuses abruptly closed on or about October 8, 2021. The gravamen of the complaint is that Defendants induced student enrollment, lied or misrepresented material facts to their students, failed to provide educational services despite contractual obligations, and failed to provide tuition refunds per their contracts.

25. The Representative Plaintiff, on behalf of herself and the Class members, seeks damages for failing to receive the benefit of the bargain with respect to the contracts in place.

26. The Representative Plaintiff, on behalf of herself and the Class members, wishes to protect his individual claims and cause of action in the alternative to the class action complaint to adhere to the statute of limitations.

BACKGROUND

A. What is Vista College?

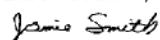
27. Defendants EFG, EFG General, EFM, and/or CCC own and operate seven (7) Vista College ‘ground campuses’ with one (1) in Fort Smith, Arkansas, one (1) in Las Cruces, New Mexico, and five (5) in Texas: Beaumont, El Paso, College Station, Killeen, and Longview. This putative class action is *only* sought for Texas citizens involving the Texas-based Vista College campuses.

28. According to Vista College’s 2021 catalog, Vista College’s mission is “*to provide high quality, specialized career preparation or enhancement. Vista College recognizes this is an era of accelerated changes and accepts the responsibility to aid its students in preparation for these changes by providing quality education and career guidance relative to the demands of an*

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evolving workplace." Vista College provided students with dozens of diplomas, license, certificates, and/or degree programs throughout their campuses. The courses, tuition, and fees vary depending on the campus, course title, number of hours, term, and other factors. The following tables illustrate various courses, tuitions rates, and expenses:

Program	Credit/Weeks	Credit Hours	Tuition	Textbook	Total	Registration Fee	Total Tuition
Business Administration (Traditional)	Associate / 75	105	\$39,242	\$150	N/A	\$100	\$39,692
Business Administration (Distance Education)	Associate / 75	105	\$39,242	\$150	N/A	\$100	\$39,692
Criminal Justice	Associate / 70	115	\$39,340	\$150	N/A	\$100	\$39,790
Construction Management	Associate / 70	105	\$18,683	\$150	\$600	\$100	\$19,733
Information Technology (IT) (Traditional)	Associate / 70	98	\$17,917	\$125	\$500	\$100	\$18,442
Information Technology (IT) (Distance Education)	Associate / 70	98	\$17,917	\$125	\$500	\$100	\$18,442
Medical Assisting (Traditional)	Associate / 75	105	\$39,350	\$150	N/A	\$100	\$39,800
Medical Assisting (Distance Education)	Associate / 75	105	\$39,350	\$150	N/A	\$100	\$39,800
Medical Insurance Billing & Coding (MIBC) (Traditional)	Associate / 80	111	\$41,973	\$150	N/A	\$100	\$42,423
Medical Insurance Billing & Coding (MIBC) (Distance Education)	Associate / 80	111	\$41,973	\$150	N/A	\$100	\$42,423
Medical Laboratory Technician	Associate / 75	114	\$41,875	\$125	N/A	\$100	\$42,300
Paralegal	Associate / 70	98	\$39,210	\$150	N/A	\$100	\$39,760
Trade Management - Heating, Ventilation, & Air Conditioning (HVAC)	Associate / 80	118	\$40,250	\$150	N/A	\$100	\$40,700
Business Administration (Traditional)	Diploma / 40	52	\$22,200	\$200	N/A	\$100	\$22,500
Business Administration (Distance Education)	Diploma / 40	52	\$22,200	\$200	N/A	\$100	\$22,500
Construction Technology	Diploma / 40	52	\$20,250	\$200	\$600	\$100	\$21,150
Dental Assistant	Diploma / 45	57	\$21,500	\$200	N/A	\$100	\$21,800
Electrical Technician	Diploma / 50	65	\$21,500	\$250	\$773	\$100	\$22,623
Heating, Ventilation, & Air Conditioning (HVAC)	Diploma / 50	65	\$23,000	\$250	\$750	\$100	\$24,100
Information Technology (IT) (Traditional)	Diploma / 40	52	\$20,500	\$175	\$500	\$100	\$21,275
Information Technology (IT) (Distance Education)	Diploma / 40	52	\$20,500	\$175	\$500	\$100	\$21,275
Medical Administrative Assistant (Distance Education)	Diploma / 40	52	\$16,325	\$175	N/A	\$100	\$16,500
Medical Assisting (Traditional)	Diploma / 45	58	\$25,300	\$200	N/A	\$100	\$25,500
Medical Assisting (Distance Education)	Diploma / 45	58	\$25,200	\$200	N/A	\$100	\$25,500
Medical Assisting for Spanish Speakers (Traditional)	Diploma / 45	76	\$25,200	\$200	N/A	\$100	\$25,500
Medical Assisting for Spanish Speakers (Hybrid)	Diploma / 45	76	\$25,200	\$200	N/A	\$100	\$25,500
Medical Insurance Billing & Coding (MIBC) (Traditional)	Diploma / 50	65	\$18,200	\$200	N/A	\$100	\$24,500
Medical Insurance Billing & Coding (MIBC) (Distance Education)	Diploma / 50	65	\$24,300	\$200	N/A	\$100	\$24,500
Pharmacy Technician (Traditional)	Diploma / 50	60	\$14,250	\$150	N/A	\$100	\$14,500
Pharmacy Technician (Hybrid)	Diploma / 50	60	\$14,250	\$150	N/A	\$100	\$14,500
Vocational Nurse (D)	Diploma / 60	73	\$31,000	\$400	N/A	\$100	\$31,500
Vocational Nurse (E)	Diploma / 75	73	\$31,000	\$400	N/A	\$100	\$31,500
Clock-Hour Programs	Credit/Weeks	Credit Hours	Tuition	Textbook	Total	Registration Fee	Total Tuition
Cosmetology	Certificate / 40	1,000	\$12,900	\$750	\$1,250	\$100	\$15,000
Cosmetology (Teachout)	Certificate / 44 (D) and 60 (E)	1,500	\$19,000	\$750	\$1,250	\$100	\$21,100
Non-Tech IV Programs	Credit/Weeks	Credit Hours	Tuition	Textbook	Total	Registration Fee	Total Tuition
Home Auto Training	Certificate / 3	4	\$750	N/A	N/A	N/A	\$750
Phlebotomy for Healthcare Professionals Seminar	Certificate / 2.5	3	\$500	N/A	N/A	N/A	\$500

¹ This chart is from Vista College's 2021 Texas Student Catalog.

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29. Defendant Tolbert was the Chief Executive Officer of Vista College at the time of closure. Upon reason and belief, Defendant Tolbert communicated with the students – both personally and/or in the Student Catalog:

Welcome from the Chief Executive Officer

Vista College has just completed its fourteenth year of operation, and it gives me a chance to reflect on our success. Success doesn't just happen. Success is the result of a plan that is made and followed. Unfortunately, too many students have been led to believe that all they need for a successful and happy future is a diploma. This belief has resulted in disappointment for hundreds of capable graduates. Today it is important that every person be self-reliant. Our personal and national economies demand it. How then should people plan to assure themselves the greatest possibilities for happy and successful futures? There are three simple but vitally related factors that are essential but too frequently ignored: interest, demand and potential growth.

The most important item to remember in planning your future is that you must start with your interests. If you are interested in something, you will enjoy learning about it today and doing it tomorrow. Once you've spent your time and money on education, it is important there be a demand for the services in which you were trained. Finally, explore the growth potential in the field you select and be sure the field will meet your expectations. Ambitious men and women properly trained do not want to stagnate; they want to progress and grow.

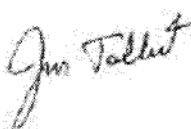
The entire structure of our busy world depends largely upon properly trained medical, trades and office personnel for successful operation. By recognizing the need to continue your education, you have taken the first step in becoming a marketable individual. You have recognized the need to possess certain necessary skills if you are to compete in the rapidly changing job market. Business and industry thrives because of motivated people like you who want to contribute to the growth of our nation.

Vista College provides students with the opportunity to learn traditional concepts in the areas of medicine, trades, and business. I personally challenge you to be the best that you can be. Not only while attending Vista College, but also when you enter the job market as a graduate.

At Vista College, students are in a unique community. Our philosophy is that each student is an integral part in the success of our school. Every student has individual needs and wants. We will treat you with the respect and dignity you deserve. Our goal is to make every student be proud to be a part of Vista College. Our rewards will come from your accomplishments and success obtained from your education. We want to be your educational family. Remember, you are the school!

If you consider yourself a motivated individual who sees the world as exciting and challenging, I invite you to explore this catalog and consider Vista College as your means to become an integral part of our ever-changing and competitive world.

ALL INFORMATION CONTAINED IN THIS STUDENT CATALOG IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.



Jim Tolbert
Chief Executive Officer

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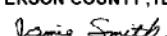
Tolbert made additional representations (indirectly or directly) to the students, through direct or school communications, about students graduating and receiving the services for which Plaintiff and others paid but did not receive.

² (emphasis added). *Id.*

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30. Defendants KENTER and MCINERNEY are listed in the Texas Vista College Catalog as Board of Directors and Corporate Officers:

COLLEGE GOVERNANCE

Vista College and its subsidiaries are owned by Education Futures Management, Co.

BOARD OF DIRECTORS

Mr. Jim Tolbert
Chief Executive Officer

Mr. Louis Kenter
Chairman

Mr. Michael P. McInerney
Vice President and Secretary

CORPORATE OFFICERS

Mr. Louis Kenter
Chairman

Mr. Jim Tolbert
Chief Executive Officer

Mr. Timothy Armstrong
Vice President of Operations

Mr. Michael P. McInerney
Vice President and Secretary

Andrew Gray
Chief Financial Officer and Assistant Secretary

Thus, Defendants KENTER and MCINERNEY were directly – and individually – involved with both Prospect Partners and the school entities.

b. The Closure of Vista College

31. In August 2021, Defendants announced its plans to stop enrollment of new students – the decision to transition to ‘online only’ was made, in part, because of inadequate finances, student population decline, changing regulations, and mismanagement. As a result of this ‘fundamental shift’, Defendants’ executives perpetrated an email message to its students that – in part – provided: “*We will continue to offer the courses you need to graduate from your programs, including students who started their programs in August 2021... Most students in good academic standing who are currently active at the campuses will have the opportunity to complete their programs and should not experience significant changes to their educational experience. You will continue to receive quality academic programs academic, financial aid, student services and career placement support.*” Upon information and belief, all Defendants—including Tolbert—approved and/or participated in these communications.

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32. Also, in August 2021, Defendant Tolbert held a Zoom meeting with faculty members at each campus. In said meeting, Defendant Tolbert informed the majority of faculty members that they were furloughed effective immediately. Despite knowing their schools were in clear and present danger of ceasing operation, Defendant Tolbert doubled down on College Station's local news station, KBTX, by stating, "the reason we did that [suspended in-person enrollment for ground campuses] is to make sure we had all the financial resources at our disposal to make sure the students currently enrolled in school get exactly what they paid for."³ That, of course, did not happen as Defendants shut down all campuses and programs without notice to students on October 8, 2021. Tolbert had made yet another promise to the students that he and Defendants failed to keep.

33. Class Members received the below message from Defendants drafted and/or perpetrated by Defendant Tolbert:

Vista College Closure

Vista College Students,

Vista College has made the difficult decision to close all operations effective with the end of Business on October 8th 2021. Although we are in compliance with both accreditation and state/federal regulations we are unable to continue due to financial circumstances.

We apologize for the sudden notice but due to unforeseen events we could not continue with the new term on Oct 11th nor continue the current nursing term.

We realize the challenges this causes for students and we have been working to identify potential transfer colleges and schools to complete your degrees. Please monitor the Vista College Website: www.vistacollege.edu as we will be posting important information to the website.

³ See <https://www.kbtx.com/2021/08/10/vista-college-suspends-in-person-enrollment-furloughs-employees-across-texas/>.

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Defendants' decision to abruptly close their campuses down betrayed thousands of students and teachers. Students were stripped of their opportunity to complete their programs. These students paid thousands of dollars towards their programs and/or took out student loans and remain in debt. Thus, many of these students still owe money to their loan servicer(s) despite losing the opportunity to obtain their degree, certificate, and/or diploma. Teachers unexpectedly lost their employment.

34. The *same week as campus closures*, The Federal Trade Commission placed Vista College, along with dozens of other for-profit schools, on their "List of October 2021 Recipients of the FTC's Notice of Penalty Offenses in the Higher Education Marketplace." The Commission stated in a press release, "The Federal Trade Commission put 70 for-profit higher education institutions on notice that the agency is cracking down on any false promises they make about their graduates' job and earnings prospects and other outcomes and will hit violators with significant financial penalties."⁴ The FTC Chair stated in said press release, "'For too long, unscrupulous for-profit schools have preyed on students with impunity, facing no penalties when they defraud their students and drive them into debt,' said FTC Chair Lina M. Khan. 'The FTC is resurrecting a dormant authority to deter wrongdoing and hold accountable bad actors who abuse students and taxpayers.'"⁵

BRIEF SUMMARY OF THE CLAIMS AND REMEDIES SOUGHT

35. Defendants' denial and refusal to remain open long enough for Plaintiff and the Proposed Class to complete their program and/or course constitutes a breach of contract because Defendants, through the contract with Plaintiff and the Proposed Class, were contractually obligated to provide what was paid for.

⁴ See <https://www.ftc.gov/news-events/press-releases/2021/10/ftc-targets-false-claims-profit-colleges>.

⁵ *Id.*

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36. Defendants' denial and refusal to (1) remain open long enough for Plaintiff and the Proposed Class to complete their program and/or course, and (2) refund Plaintiff and the Proposed Class' tuition costs constitute a breach of contract because Defendants, through the contract with Plaintiff and the Proposed Class, were contractually obligated to provide what was paid for. Defendants failed to honor and breached its contractual obligations to Plaintiff and the Proposed Class, resulting in harm and damages to Plaintiff and the Proposed Class.

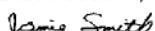
37. In refusing to (1) remain open long enough for Plaintiff and the Proposed Class to complete their program and/or course, and (2) refund Plaintiff and the Proposed Class's tuition costs, Defendants breached the covenant of good faith and fair dealing and acted in bad faith towards Plaintiff and the Proposed Class. Defendants' conduct demonstrates that their denial of tuition refund was prompted not by honest mistake, bad judgment or negligence, but rather by conscious and deliberate conduct which unfairly frustrated the agreed common purposes and disappointed the reasonable expectations of consumers/students such as Plaintiff and the Proposed Class thereby depriving Plaintiff and the Proposed Class of the benefits of their course and/or program they purchased in reliance on Defendants' representations, advertisements, and marketing.

38. As shown, Defendants negligently and/or intentionally lead Plaintiff and the Proposed Class to believe they would be able to complete their programs and receive their diplomas, degrees and/or certificate before closure. Moreover, Defendants negligently and/or intentionally lead Plaintiff and the Proposed Class to believe *if* the campus closed down, Defendants would reimburse Plaintiff and the Proposed Class for all costs. Plaintiff and the Proposed Class relied on those representations and continued to pay their tuition and other educational costs. Defendants then knowingly and intentionally closed down all campuses,

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denying Plaintiff and the Proposed Class their opportunity to complete their course and/or program. Plaintiff and the Proposed Class were injured as a result of Defendants' behavior.

39. Through written materials and oral communications, Defendants represented (1) Vista College would continue to offer Plaintiff and the Proposed Class the courses needed to graduate; (2) Plaintiff and the Proposed Class would not experience significant changes to their educational experience; (3) Plaintiff and the Proposed Class would be able to complete their programs before campus closures and/or graduate; (4) Plaintiff and the Proposed Class would obtain employment as a result of course and/or program completion; (5) in the event of an early campus closure, Defendants would reimburse Plaintiff and the Proposed Class their tuition and costs; (6) guaranteed or promised jobs and/or job placement that never occurred and/or (7) guaranteed or promised salary levels or ranges that never materialized; (8) failed and/or refused to make credits transferrable and/or otherwise ensure that those courses completed or near completion could be adequately transferred or completed at other equivalent institutions with a accreditation; and (9) other acts and/or omissions to be stated after discovery or at the time of trial. Defendants' misrepresentations were made in the course of Defendants' business and were made with a purpose to affect the financial decisions of Plaintiff and the Proposed Class (all of whom are "consumers" under DTPA and other Texas law). Defendants' misrepresentations were objectively material to Plaintiff, and the Proposed Class, and the reasonable consumer. Defendants failed to exercise reasonable care in communicating these misrepresentations and Plaintiff and the Proposed Class were damaged as a proximate cause thereof. Importantly, Defendants benefitted monetarily as a result of these misrepresentations.

40. A fiduciary duty, created by law and/or contract, existed between Plaintiff and the Proposed Class and Defendants at the time of campus closures. Defendants breached their

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fiduciary duty by their actions set forth herein and Plaintiff and the Proposed Class were injured as a result. Defendants benefitted from their breach by collecting the tuition of Plaintiff and the Proposed Class, then refusing to pay it back, and closing down all campuses to save overhead expenses.

41. Defendants committed several violations under the Texas Deceptive Trade Practices-Consumer Protection Act (“DTPA”). At all material times, Plaintiff and the Proposed Class constitute “consumers” as defined in TEX. BUS. & COM. CODE §17.46(A)(4). Defendants knowingly and intentionally committed these DTPA violations. As a result of Defendants’ noncompliance with the DTPA, Plaintiff and the Proposed Class are entitled to economic damages, which include the amount of the benefits wrongly withheld. For knowing conduct violations, Plaintiff and the Proposed Class ask for three times their economic damages. For intentional conduct violations, Plaintiff and the Proposed Class are entitled to their economic damages, and Plaintiffs ask for three times their amount of economic damages. Plaintiff and the Proposed Class are also entitled to court costs and attorney’s fees. TEX. BUS. & COM. CODE ANN. §17.50(b)(1).

42. As a result of the conduct set forth herein, Defendants have been, and will continue to be unjustly enriched at the expense of Plaintiff and the Proposed Class.

FIRST GROUP OF CAUSES OF ACTION
**(Breach of Contract including the Breach of Expressed Terms and the Implied Terms –
Breach of the Covenant of Good Faith and Fair Dealing)**

43. Paragraphs 1 through 42 are incorporated by reference.

44. Contracts existed between Plaintiff and the Proposed Class and Defendants. Plaintiff and the Proposed Class entered into agreements with Vista College for various programs and/or courses.

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45. Under each contract, Plaintiff and the Proposed Class were required to pay the amount of each program and/or course referenced in each contract. Plaintiff and the Proposed Class's contracts were in full force and effect at the time Defendants closed down their campuses.

46. All conditions precedent to Defendants' obligation were satisfied.

47. Defendants breached the terms of their contracts with Plaintiff and the Proposed Class by failing to provide them with the promised products and services as contracted. Moreover, Defendants' failure to provide adequate refunds constitute as a breach.

48. Plaintiff and the Proposed Class have sustained actual damages as the result of Defendants' breach of contract.

49. In misrepresenting through its representations that Vista College would remain open through Plaintiff and the Proposed Class's scheduled curriculum, and in abruptly closing down all of its' campuses without ensuring a smooth transition of credits or courses to other schools, Defendants breached and failed to honor its implied covenant of good faith and fair dealing under Texas law.

50. The law implies a covenant of good faith and fair dealing in every contract. Defendants violated this covenant of good faith and fair dealing in its contract with Plaintiff and the Proposed Class by, *inter alia*, misrepresenting to Plaintiff and the Proposed Class that their campuses would remain open (at least) through the courses currently in progress. Despite these representations, Defendants closed down all campuses with no forewarnings.

51. Defendants breached their duty of good faith and fair dealing and acted in bad faith in the following respects:

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- a. Representing through its advertising, marketing, and other representations that the campuses would not close down until (at the earliest) the completion of Plaintiff and the Proposed Class's curriculum.
- b. Acting in such a manner as to damage Plaintiff and the Proposed Class and/or committing acts which unjustifiably denied Plaintiff and the Proposed Class the benefits to which they were entitled under the Contract.
- c. Failing to provide full and complete training and/or education, as stated in the Contract.
- d. Failing to provide full reimbursement(s) for any and all tuition and costs to Plaintiff and the Proposed Class after abruptly closing down all campuses.
- e. Failing to provide adequate notice to Plaintiff and the Proposed Class that all campuses would be closed down.
- f. Failing to attempt in good faith to compromise Plaintiff and the Proposed Class for their lost money and/or time towards their program(s).
- g. Failing to ensure a smooth transition of Plaintiff's and the Proposed Class' credits or courses to other institutions.

52. Defendants' bad-faith denial of Plaintiff and the Proposed Class's training and/or education was done as part of Defendants' business practices. Defendants' wrongful conduct was authorized and ratified by its management and was done with disregard of Plaintiff and the Proposed Class's rights. Such conduct was done to take advantage of the financially weaker or vulnerable position of Plaintiff and the Proposed Class and constitutes a pattern or practice of misconduct through trickery or deceit to deny Plaintiff and the Proposed Class the benefit of their training and/or education.

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53. Plaintiff and the Proposed Class performed all, or substantially all, of the significant duties required under their agreements with Defendants.

54. Defendants did not provide and/or unfairly interfered with the rights of Plaintiff and the Proposed Class to receive the benefits under their agreements with Defendants.

55. Defendants acted with oppression and malice, including with conscious and willful disregard of the rights of Plaintiff and the Proposed Class and to their harm and detriment. Plaintiff and the Proposed Class are accordingly entitled to recovery of exemplary and punitive damages.

SECOND GROUP OF CAUSES OF ACTION
(Negligent and Intentional Misrepresentation)

56. Paragraphs 1 through 55 are incorporated by reference.

57. Through written materials and oral discussions, Defendants – including Defendant Tolbert – represented, in part, to Class Members the schools were remaining open long enough for Plaintiff and the Proposed Class to complete their program and/or course and there would be no significant change to their educational experience. Defendants – including Defendant Tolbert – also represented to Class Members they would be eligible to transfer “up to 75% of the credits required to complete your degree”, which is not true. Moreover, Defendants – including Defendant Tolbert – represented inflated, misleading, and false placement rates for Class Members’ programs.

58. As stated herein, Defendant Tolbert made the following additional misrepresentations:

- a. Email to Class Members from August 2021: *“We will continue to offer the courses you need to graduate from your programs, including students who started their programs in August 2021... Most students in good academic standing who are currently active at the campuses will have the opportunity to complete their programs and should not experience significant changes to their*

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educational experience. You will continue to receive quality academic programs academic, financial aid, student services and career placement support.”

- b. August 2021 interview with College Station’s local news station: “the reason we did that [suspended in-person enrollment for ground campuses] is to make sure we had all the financial resources at our disposal to make sure the students currently enrolled in school get exactly what the paid for.”⁶ Defendant Tolbert effectively tells Class Members they will ‘get what they paid for’ despite informing faculty members the majority of them were immediately furloughed just days before.
- c. October 2021 closure statement:

Vista College Closure

Vista College Students,

Vista College has made the difficult decision to cease all operations effective with the close of business on October 8th 2021. Although we are in compliance with both accreditation and state/federal regulations we are unable to continue due to financial circumstances.

We apologize for the sudden notice but due to unforeseen events we could not continue with the new term on Oct 11th and conclude the current nursing term.

We realize the challenges this causes for students and we have been working to identify potential transfer colleges and schools to complete your degree. Please monitor the Vista College Website: www.vistacollege.edu as we will be posting important information to the website.

59. Defendants’ misrepresentations – including Defendant Tolbert’s – were made in the course of the Defendants’ business.

⁶ See <https://www.kbtx.com/2021/08/10/vista-college-suspends-in-person-enrollment-furloughs-employees-across-texas/>.

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60. Defendants' misrepresentations – including Defendant Tolbert's – were supplied and/or conveyed for the purpose of affecting Plaintiff and the Proposed Class's financial decisions.

61. Defendants – including Defendant Tolbert – failed to exercise reasonable care and/or diligence in communicating their misrepresentations, and/or made them intentionally.

62. Defendants' – including Defendant Tolbert's – misrepresentations were objectively material to the reasonable consumer, and therefore reliance upon such representations may be presumed as a matter of law.

63. Defendants – including Defendant Tolbert – intended that Plaintiff and the Proposed Class would rely on their misrepresentations.

64. Plaintiff and the Proposed Class reasonably and justifiably relied to their detriment on Defendants' – including Defendant Tolbert's – misrepresentations.

65. As a proximate result of Defendants' – including Defendant Tolbert's – negligent and/or intentional misrepresentations, Plaintiff and the Proposed Class were damaged in an amount to be proven at trial.

66. Defendants directly benefitted from, and were unjustly enriched by, their misrepresentations.

THIRD CAUSE OF ACTION **(Breach of fiduciary duty)**

67. Paragraphs 1 through 66 are incorporated by reference.

68. At all times relevant to this case, a fiduciary relationship created by law and/or contract existed between Plaintiff (and the Proposed Class) and Defendants.

69. Defendants breached their fiduciary duties to Plaintiff and the Proposed Class when they abruptly closed down their campuses with no warning to Plaintiff and the Proposed Class. The students were stripped of their opportunity to complete and/or continue their programs.

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70. Defendants' breach resulted in injury to Plaintiff and the Proposed Class. Plaintiff and the Proposed Class lost thousands of dollars, promised jobs, education, and their future.

71. Defendants benefitted from their breach by collecting the tuition paid for by Plaintiff and the Proposed Class, while failing to provide the paid-for product and cutting overhead by closing down all operations.

FOURTH CAUSE OF ACTION
(Violations of the Texas Deceptive Trade Practices Consumer Protection Act ("DTPA"))

72. Paragraphs 1 through 71 are incorporated by reference.

73. Defendants' conduct constitutes multiple violations of the Texas Deceptive Trade Practices-Consumer Protection Act ("DTPA"). TEX. BUS. & COM. CODE §17.41-17.63. All violations of this chapter are made actionable by TEX. BUS. & COM. CODE §17.50(a)(1).

74. At all material times, Plaintiff and the Proposed Class and others similarly situated in Texas, were "consumers" as defined in TEX. BUS. & COM. CODE §17.45(4).

75. Defendants' failure to disclose information concerning goods or services, as described above, which was known at the time of the transaction, and which was intended to induce Plaintiff and the Proposed Class into a transaction into which Plaintiff and the Proposed Class would not have entered had the information been disclosed, constitutes a false, misleading, or deceptive act and practice. TEX. BUS. & COM. CODE §17.46(b)(2).

76. Defendants' misrepresentations and omissions, as described above, caused confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services, constitutes a false, misleading, or deceptive act and practice. TEX. BUS. & COM. CODE §17.46(b)(7).

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77. Defendants' advertising goods or services with intent not to sell them as advertised, constitutes as a false, misleading, or deceptive act and practice. TEX. BUS. & COM. CODE §17.46(b)(9).

78. Defendants' misrepresentations that an agreement confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law, constitutes as a false, misleading, or deceptive act and practice. TEX. BUS. & COM. CODE §17.46(b)(12).

79. Defendants' failure to disclose information concerning goods or services, as described above, which was known at the time of the transaction, and which was intended to induce Plaintiff and the Proposed Class into a transaction into which Plaintiff and the Proposed Class would not have entered had the information been disclosed, constitutes a false, misleading, or deceptive act and practice. TEX. BUS. & COM. CODE §17.46(b)(24).

80. As a result of Defendants' noncompliance with the DTPA, Plaintiff and the Proposed Class are entitled to economic damages, which include the amount of the benefits wrongly withheld.

81. For knowing conduct violations, with regard to these breaches of duty, Plaintiff and the Proposed Class ask for three times their economic damages.

82. For intentional conduct violations, with regard to these breaches of duty, Plaintiff and the Proposed Class are entitled to their economic damages, and Plaintiff and the Proposed Class ask for three times their amount of economic damages. Plaintiff and the Proposed Class are also entitled to court costs and attorney's fees. TEX. BUS. & COM. CODE ANN. §17.50(b)(1).

FIFTH GROUP OF CAUSES OF ACTION
(Quantum Meruit, and Promissory Estoppel)

83. Paragraphs 1 through 82 are incorporated by reference.

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84. Plaintiff and the Proposed Class provided valuable services and/or materials to Defendants who accepted the services and/or materials. Under the circumstances herein, Defendants were notified that Plaintiff and the Proposed Class expected to be fully reimbursed and/or provided their programs and/or courses.

85. Defendants made multiple promises to Plaintiff and the Proposed Class described herein.

86. Plaintiff and the Proposed Class reasonably and substantially relied on the promise(s) to their detriment.

87. Plaintiff and the Proposed Class and the Proposed Class's reliance was foreseeable by Defendants.

88. Injustice can be avoided only by enforcing Defendants' promise(s) to Plaintiff and the Proposed Class.

89. Defendants directly benefitted from, and were unjustly enriched by, their misrepresentations.

90. All the foregoing plead and stated in this petition constitute *quantum meruit* and promissory estoppel, for which claims are brought.

SIXTH CAUSE OF ACTION **(Unjust Enrichment)**

91. Paragraphs 1 through 90 are incorporated by reference.

92. A party cannot induce, accept or encourage another to furnish or render something of value to such party and avoid payment for the value received.

93. As a result of the conduct described above, Defendants have been, and will continue to be, unjust enriched at the expense of Plaintiff and the Proposed Class.

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94. Defendants have received, and are holding, funds belonging to Plaintiff and the Proposed Class which in equity Defendants should not be permitted to keep but should be required to refund Plaintiff and the Proposed Class.

DEMAND FOR TRIAL BY JURY

95. Plaintiff and the Proposed Class hereby demand trial by jury on all claims for which the law provides a right to jury trial.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Plaintiff and the Proposed Class herein, on behalf of themselves and those similarly situated, respectfully pray:

Claims of Proposed Class

- a. That the Court enter an order certifying this action as a Class Action in accordance with Rule 42;
- b. That Defendants be cited to appear and answer herein;
- c. For an order requiring Defendants to disclose to Plaintiff's counsel the name, address, telephone number, and school location of all persons potentially within this Class as described hereinabove;
- d. For an order requiring Defendants, at Defendants' expense, to bear the expense of the preparation, mailing or other means of transmittal, and all administrative costs associated with the provision of notice (the substance of such notice to be approved by the Court) to potential members of the Class as described hereinabove;
- e. For an order awarding all relief deemed appropriate and proper by the Court pursuant to Texas law, and any other applicable law;

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- f. For an injunction and order requiring Defendants to immediately cease and desist from destroying or deleting any student or other relevant information, or making further misrepresentations to Plaintiff and the proposed class;
- g. For an order awarding Plaintiffs attorneys' fees and costs from Defendants;
- h. For an order awarding Plaintiff and the Proposed Class general, special, compensatory, nominal, treble, and/or punitive damages against Defendants;
- i. For an order awarding Plaintiff and the Proposed Class pre- and post-judgment interest;
- j. For an order providing such further relief, including if applicable injunctive relief, restitution, disgorgement and return of funds collected, and all such other and additional relief as this Court deems proper, at law or in equity, to which Plaintiffs or the proposed class may justly be entitled; and
- k. For money damages in an amount to be determined by a jury;

Individual Claims of Plaintiff

- a. For general and special damages according to proof at trial;
- b. For general, special, nominal, and compensatory damages including, but not limited to, out-of-pocket expenses, contractual damages, lost wages and/or profits, travel and/or school-enrollment expenses, mental and emotional distress in an amount according to proof, and all other damages available under Texas law;
- c. For punitive and/or treble damages to be awarded to Plaintiffs in an amount appropriate to punish and set an example of Defendants to deter further misconduct;
- d. For interest on the actual damages at the legal rate from October 12, 2021;
- e. For costs of suit and reasonable attorneys' fees as permitted by law; and

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- f. For such other and further relief, including if applicable injunctive relief, restitution, return of tuition, and further relief as the Court may deem just and proper;
- g. For an order providing such further relief, including if applicable injunctive relief, restitution, disgorgement and return of funds collected, and all such other and additional relief as this Court deems proper, at law or in equity, to which Plaintiffs or the proposed class may justly be entitled; and
- h. For money damages in an amount to be determined by a jury.

Respectfully submitted,

THE FERGUSON LAW FIRM, LLP

/s/ Mark C. Sparks

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Jamie Schiesler on behalf of Timothy Ferguson
 Bar No. 24099479
 jschiesler@thefergusonlawfirm.com
 Envelope ID: 63081064
 Status as of 3/30/2022 8:28 AM CST

Associated Case Party: RONDARACCA

Name	BarNumber	Email	TimestampSubmitted	Status
Jamie Schiesler		jschiesler@thefergusonlawfirm.com	3/30/2022 8:20:03 AM	SENT
Jamie Schiesler		Jschiesler@thefergusonlawfirm.com	3/30/2022 8:20:03 AM	SENT
Timothy MFerguson		tferguson@thefergusonlawfirm.com	3/30/2022 8:20:03 AM	SENT
Jamie Schiesler		jschiesler@thefergusonlawfirm.com	3/30/2022 8:20:03 AM	SENT
Mark C.Sparks		mark@thefergusonlawfirm.com	3/30/2022 8:20:03 AM	SENT
Kara Mace		kmace@thefergusonlawfirm.com	3/30/2022 8:20:03 AM	SENT

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Janie Smith

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OTHER STATE COURT FILINGS

CITATION

THE STATE OF TEXAS

No. D-0208582

RONDA RACCA INDIVIDU
VS. EFG GENERAL PARTNER CORP ET AL

CITATION

136th JUDICIAL DISTRICT COURT
of JEFFERSON COUNTY, TEXASTo: MCINERNEY, MICHAEL
BY SERVING ITS REGISTERED AGENT
CT CORPORATION SYSTEMby serving at:
1999 BRYAN STREET
SUITE 900
DALLAS, TX 75201

DEFENDANT:

NOTICE:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org." Said answer may be filed by E-filing through efiletexas.gov, if represented by an attorney; or if filed pro se by delivering or mailing same to: District Clerk's Office, 1085 Pearl, Room 203, Beaumont, TX 77701. The case is presently pending before the 136th District Court of Jefferson County sitting in Beaumont, Texas, and was filed on the 12th day of October, 2021. It bears cause number D-0208582 and is styled:

Plaintiff:

RONDA RACCA INDIVIDU

VS.

EFG GENERAL PARTNER CORP ET AL

Defendant:

The name and address of the attorney for plaintiff (or plaintiff if pro se) is:

FERGUSON, TIMOTHY M., Atty.
350 PINE STREET SUITE 1440
BEAUMONT, TX 77704 4905

The nature of the demands of said plaintiff is shown by a true and correct copy of Plaintiff's PETITION (PLAINTIFF'S ORIGINAL) accompanying this citation and made a part thereof.

Issued under my hand and the seal of said court, at Beaumont, Texas, this the 13th day of October, 2021.

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

BY

Erin Hansen

Deputy

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April 01, 2022

Erin

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS*Jamie Smith*

Page 1 of 2





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JANIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Janie Smith

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CITATION

THE STATE OF TEXAS

No. D-0208582

RONDA RACCA INDIVIDU
VS. EFG GENERAL PARTNER CORP ET AL

CITATION

136th JUDICIAL DISTRICT COURT
of JEFFERSON COUNTY, TEXASTo: KENTER, LOUIS
BY SERVING ITS REGISTERED AGENT
CT CORPORATION SYSTEMby serving at:
1999 BRYAN STREET
SUITE 900
DALLAS, TX 75201

DEFENDANT:

NOTICE:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org." Said answer may be filed by E-filing through efiletexas.gov, if represented by an attorney; or if filed pro se by delivering or mailing same to: District Clerk's Office, 1085 Pearl, Room 203, Beaumont, TX 77701. The case is presently pending before the 136th District Court of Jefferson County sitting in Beaumont, Texas, and was filed on the 12th day of October, 2021. It bears cause number D-0208582 and is styled:

Plaintiff:

RONDA RACCA INDIVIDU

VS.

EFG GENERAL PARTNER CORP ET AL

Defendant:

The name and address of the attorney for plaintiff (or plaintiff if pro se) is:

FERGUSON, TIMOTHY M., Atty.
350 PINE STREET SUITE 1440
BEAUMONT, TX 77704 4905

The nature of the demands of said plaintiff is shown by a true and correct copy of Plaintiff's PETITION (PLAINTIFF'S ORIGINAL) accompanying this citation and made a part thereof.

Issued under my hand and the seal of said court, at Beaumont, Texas, this the 13th day of October, 2021.

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

BY

Deputy

I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

Erin

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Page 1 of 2





I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JANIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Janie Smith

Certified Document Number: 2368463 Total Pages: 2

In accordance with Texas Government Code 51.301 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail districtclerk@co.jefferson.tx.us

CITATION

THE STATE OF TEXAS

No. D-0208582

RONDA RACCA INDIVIDU
VS. EFG GENERAL PARTNER CORP ET AL

CITATION

136th JUDICIAL DISTRICT COURT
of JEFFERSON COUNTY, TEXASTo: KENTER, LOUIS
BY SERVING ITS REGISTERED AGENT
CT CORPORATION SYSTEMby serving at:
1999 BRYAN STREET
SUITE 900
DALLAS, TX 75201

DEFENDANT:

NOTICE:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org." Said answer may be filed by E-filing through efiletexas.gov, if represented by an attorney; or if filed pro se by delivering or mailing same to: District Clerk's Office, 1085 Pearl, Room 203, Beaumont, TX 77701. The case is presently pending before the 136th District Court of Jefferson County sitting in Beaumont, Texas, and was filed on the 12th day of October, 2021. It bears cause number D-0208582 and is styled:

Plaintiff:

RONDA RACCA INDIVIDU
VS.
EFG GENERAL PARTNER CORP ET AL

Defendant:

The name and address of the attorney for plaintiff (or plaintiff if pro se) is:

FERGUSON, TIMOTHY M., Atty.
350 PINE STREET SUITE 1440
BEAUMONT, TX 77704 4905

The nature of the demands of said plaintiff is shown by a true and correct copy of Plaintiff's PETITION (PLAINTIFF'S ORIGINAL) accompanying this citation and made a part thereof.

Issued under my hand and the seal of said court, at Beaumont, Texas, this the 13th day of October, 2021.

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

BY

Erin Hansen

Deputy

I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS*Jamie Smith*

Erin



I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JANIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Janie Smith

Certified Document Number: 2368463 Total Pages: 2

In accordance with Texas Government Code 51.301 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail districtclerk@co.jefferson.tx.us

CITATION

THE STATE OF TEXAS

No. D-0208582

RONDA RACCA INDIVIDU
VS. EFG GENERAL PARTNER CORP ET AL

CITATION

136th JUDICIAL DISTRICT COURT
of JEFFERSON COUNTY, TEXAS

To: **EDUCATION FUTURES MANAGEMENT COMPANY**

by serving at:
300 N COIT ROAD
SUITE 1400
RICHARDSON, TX 75080

DEFENDANT:

NOTICE:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org." Said answer may be filed by E-filing through efiletexas.gov, if represented by an attorney; or if filed pro se by delivering or mailing same to: District Clerk's Office, 1085 Pearl, Room 203, Beaumont, TX 77701. The case is presently pending before the 136th District Court of Jefferson County sitting in Beaumont, Texas, and was filed on the 12th day of October, 2021. It bears cause number D-0208582 and is styled:

Plaintiff:

RONDA RACCA INDIVIDU
VS.
EFG GENERAL PARTNER CORP ET AL

Defendant:

The name and address of the attorney for plaintiff (or plaintiff if pro se) is:

FERGUSON, TIMOTHY M., Atty.
350 PINE STREET SUITE 1440
BEAUMONT, TX 77044-4905

The nature of the demands of said plaintiff is shown by a true and correct copy of Plaintiff's PETITION (PLAINTIFF'S ORIGINAL) accompanying this citation and made a part thereof.

Issued under my hand and the seal of said court, at Beaumont, Texas, this the 13th day of October, 2021.

JAMIE SMITH, DISTRICT CLERK
 JEFFERSON COUNTY, TEXAS



BY

Deputy

Erin

I CERTIFY THIS IS A TRUE COPY
 Witness my Hand and Seal of Office

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
 JEFFERSON COUNTY, TEXAS

Page 1 of 2





I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JANIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Janie Smith

Certified Document Number: 2368461 Total Pages: 2

In accordance with Texas Government Code 51.301 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail districtclerk@co.jefferson.tx.us

CITATION

THE STATE OF TEXAS

No. D-0208582

RONDA RACCA INDIVIDU
VS. EFG GENERAL PARTNER CORP ET AL

CITATION

136th JUDICIAL DISTRICT COURT
of JEFFERSON COUNTY, TEXASTo: EFG GENERAL PARTNER CORP
BY SERVING ITS REGISTERED AGENT
CT CORPORATION SYSTEMby serving at:
1999 BRYAN STREET
SUITE 900
DALLAS, TX 75201

DEFENDANT:

NOTICE:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org." Said answer may be filed by E-filing through efiletexas.gov, if represented by an attorney; or if filed pro se by delivering or mailing same to: District Clerk's Office, 1085 Pearl, Room 203, Beaumont, TX 77701. The case is presently pending before the 136th District Court of Jefferson County sitting in Beaumont, Texas, and was filed on the 12th day of October, 2021. It bears cause number D-0208582 and is styled:

Plaintiff:

RONDA RACCA INDIVIDU

VS.

EFG GENERAL PARTNER CORP ET AL

Defendant:

The name and address of the attorney for plaintiff (or plaintiff if pro se) is:

FERGUSON, TIMOTHY M., Atty.
350 PINE STREET SUITE 1440
BEAUMONT, TX 77704 4905

The nature of the demands of said plaintiff is shown by a true and correct copy of Plaintiff's PETITION (PLAINTIFF'S ORIGINAL) accompanying this citation and made a part thereof.

Issued under my hand and the seal of said court, at Beaumont, Texas, this the 13th day of October, 2021.

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

BY

Erin Hansen

Deputy

I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

Erin

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS*Jamie Smith*

Page 1 of 2





I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JANIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Janie Smith

Certified Document Number: 2368460 Total Pages: 2

In accordance with Texas Government Code 51.301 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail districtclerk@co.jefferson.tx.us

CITATION

155
DISTRICT CLERK OF
JEFFERSON COUNTY, TEXAS
C0208582-00007
11/10/2021 12:50 PM
JAMIE SMITH
DISTRICT CLERK
D-208582

THE STATE OF TEXAS

No. D-0208582

**RONDA RACCA INDIVIDU
VS. EFG GENERAL PARTNER CORP ET AL**

CITATION

**136th JUDICIAL DISTRICT COURT
of JEFFERSON COUNTY, TEXAS**

To: **MCINERNEY, MICHAEL
BY SERVING ITS REGISTERED AGENT
CT CORPORATION SYSTEM**

by serving at:
**1999 BRYAN STREET
SUITE 900
DALLAS, TX 75201**

DEFENDANT:

NOTICE:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at "TexasLawHelp.org." Said answer may be filed by E-filing through efiletexas.gov, if represented by an attorney; or if filed pro se by delivering or mailing same to: District Clerk's Office, 1085 Pearl, Room 203, Beaumont, TX 77701. The case is presently pending before the 136th District Court of Jefferson County sitting in Beaumont, Texas, and was filed on the 12th day of October, 2021. It bears cause number D-0208582 and is styled:

Plaintiff:

**RONDA RACCA INDIVIDU
VS.
EFG GENERAL PARTNER CORP ET AL**

Defendant:

The name and address of the attorney for plaintiff (or plaintiff if pro se) is:

**FERGUSON, TIMOTHY M., Atty.
350 PINE STREET SUITE 1440
BEAUMONT, TX 77704 4905**

The nature of the demands of said plaintiff is shown by a true and correct copy of Plaintiff's PETITION (PLAINTIFF'S ORIGINAL) accompanying this citation and made a part thereof.

Issued under my hand and the seal of said court, at Beaumont, Texas, this the 13th day of October, 2021.

**JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS**



BY

Deputy

Erin

I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith

Page 1 of 4



I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith Page 2 of 4



RETURN OF SERVICE

D-0208582 136th JUDICIAL DISTRICT COURT

RONDA RACCA INDIVIDU

EFG GENERAL PARTNER CORP ET AL

Executed when copy was delivered:

This is a true copy of the original citation, was delivered to defendant _____, on the _____ day of _____, 20____.

_____, Officer

_____, County, Texas

By: _____, Deputy

ADDRESS FOR SERVICE:

MCINERNEY, MICHAEL
 BY SERVING ITS REGISTERED AGENT
 1999 BRYAN STREET
 SUITE 900
 DALLAS, TX 75201 0000

OFFICER'S RETURN

Came to hand on the _____ day of _____, 20____, at _____, o'clock _____.m., and executed in _____, County, Texas by delivering to each of the within named defendants in person, a true copy of this Citation with the date of delivery endorsed thereon, together with the accompanying copy of the Citation at the following times and places, to-wit:

Name	Date/Time	Place, Course and Distance from Courthouse
------	-----------	--

And not executed as to the defendant(s), _____

The diligence used in finding said defendant(s) being:

and the cause or failure to execute this process is:

and the information received as to the whereabouts of said defendant(s) being:

FEES:

Serving Petition and Copy \$_____

Total	\$_____	_____, Officer
-------	---------	----------------

_____, County, Texas

By: _____, Deputy

Affiant

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign and return. The signature is not required to be verified. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return shall be signed under penalty of perjury and contain the following statement:

"My name is _____, my date of birth is _____, and my address is _____.
 (First, Middle, Last)

(Street, City, Zip)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FORGOING IS TRUE AND CORRECT.

Executed in _____, County, State of _____, on the _____ day of _____.

Declarant/Authorized Process Server

(Id # expiration of certification)

I CERTIFY THIS IS A TRUE COPY
 Witness my Hand and Seal of Office

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
 JEFFERSON COUNTY, TEXAS

Jamie Smith

Page 3 of 4



CAUSE NUMBER: D-0208582

**RONDA RACCA, INDIVIDUALLY AND ON
BEHALF OF ALL SIMILARLY SITUATED
PERSONS
PLAINTIFF**

VS.

**IN THE 130TH JUDICIAL DISTRICT
COURT OF JEFFERSON COUNTY, TEXAS**

**EFG GENERAL PARTNER CORP., ET AL
DEFENDANT**

RETURN OF SERVICE

My name is **GUY CONNELLY**. I am over the age of eighteen (18), I am not a party to this case, and have no interest in its outcome. I am in all ways competent to make this affidavit and this affidavit is based on personal knowledge. The facts stated herein are true and correct. My business address is: 1320 QUITMAN ST. STE 100, HOUSTON, HARRIS COUNTY, TX 77009, U.S.A.

ON Monday November 08, 2021 AT 04:31 PM - CITATION, PLAINTIFF'S ORIGINAL CLASS-ACTION PETITION came to hand for service upon **LOUIS KENTER BY SERVING ITS REGISTERED AGENT CT CORPORATION SYSTEM.**

On Wednesday November 10, 2021 at 11:05 AM - The above named documents were hand delivered to: **LOUIS KENTER BY SERVING ITS REGISTERED AGENT CT CORPORATION SYSTEM @ 1999 BRYAN STREET SUITE 900, DALLAS , TX 75201, in Person.** By delivering to Latoya Sterns, Intake Specialist.

FURTHER AFFIANT SAYETH NOT.

STATE OF TEXAS

DECLARATION

"My name is **GUY CONNELLY**, my date of birth is 11/04/1951 my business address is **1320 QUITMAN STREET, HOUSTON, TX 77009**, and I declare under penalty of perjury that this affidavit is true and correct."

Executed in Collin County, State of Texas on Wednesday November 10, 2021

/s/GUY CONNELLY

Declarant

PSC#2201 EXP. 09/30/22

Appointed in accordance with State Statutes

2021.11.604338

I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith

Page 4 of 4





I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JANIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Janie Smith

Certified Document Number: 2388886 Total Pages: 4

In accordance with Texas Government Code 51.301 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail districtclerk@co.jefferson.tx.us



11/10/2021 12:30 PM

CITATION

THE STATE OF TEXAS

JAMIE SMITH
DISTRICT CLERK
D-208582

No. D-0208582

RONDA RACCA INDIVIDU
VS. EFG GENERAL PARTNER CORP ET AL

CITATION

136th JUDICIAL DISTRICT COURT
of JEFFERSON COUNTY, TEXASTo: EFG GENERAL PARTNER CORP
BY SERVING ITS REGISTERED AGENT
CT CORPORATION SYSTEMby serving at:
1999 BRYAN STREET
SUITE 900
DALLAS, TX 75201

DEFENDANT:

NOTICE:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org." Said answer may be filed by E-filing through efiletexas.gov, if represented by an attorney; or if *pro se* by delivering or mailing same to: District Clerk's Office, 1085 Pearl, Room 203, Beaumont, TX 77701. The case is presently pending before the 136th District Court of Jefferson County sitting in Beaumont, Texas, and was filed on the 12th day of October, 2021. It bears cause number D-0208582 and is styled:

Plaintiff:

RONDA RACCA INDIVIDU

VS.

EFG GENERAL PARTNER CORP ET AL

Defendant:

The name and address of the attorney for plaintiff (or plaintiff *if pro se*) is:

FERGUSON, TIMOTHY M., Atty.
350 PINE STREET SUITE 1440
BEAUMONT, TX 77704-4905

The nature of the demands of said plaintiff is shown by a true and correct copy of Plaintiff's PETITION (PLAINTIFF'S ORIGINAL) accompanying this citation and made a part thereof.

Issued under my hand and the seal of said court, at Beaumont, Texas, this the 13th day of October, 2021.

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

BY

Deputy

I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

Erin

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith

Page 1 of 4



I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith Page 2 of 4



RETURN OF SERVICE

D-0208582 136th JUDICIAL DISTRICT COURT

RONDA RACCA INDIVIDU

EFG GENERAL PARTNER CORP ET AL

Executed when copy was delivered:

This is a true copy of the original citation, was delivered to defendant _____, on the _____ day of _____, 20____.

_____, Officer

_____, County, Texas

By: _____, Deputy

ADDRESS FOR SERVICE:

EFG GENERAL PARTNER CORP

BY SERVING ITS REGISTERED AGENT

1999 BRYAN STREET

SUITE 900

DALLAS, TX 75201 0000

OFFICER'S RETURN

Came to hand on the _____ day of _____, 20____, at _____, o'clock _____.m., and executed in _____, County, Texas by delivering to each of the within named defendants in person, a true copy of this Citation with the date of delivery endorsed thereon, together with the accompanying copy of the Citation at the following times and places, to-wit:

Name _____ Date/Time _____ Place, Course and Distance from Courthouse _____

And not executed as to the defendant(s), _____

The diligence used in finding said defendant(s) being:

and the cause or failure to execute this process is:

and the information received as to the whereabouts of said defendant(s) being:

FEES:

Serving Petition and Copy \$ _____

Total \$ _____, Officer
_____, County, Texas

By: _____, Deputy

Affiant

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign and return. The signature is not required to be verified. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return shall be signed under penalty of perjury and contain the following statement:

"My name is _____, my date of birth is _____, and my address is _____.
(First, Middle, Last)

(Street, City, Zip)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FORGOING IS TRUE AND CORRECT.

Executed in _____, County, State of _____, on the _____ day of _____.

Declarant/Authorized Process Server

I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

(Id # expiration of certification)

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith



CAUSE NUMBER: D-0208582

**RONDA RACCA, INDIVIDUALLY AND ON
BEHALF OF ALL SIMILARLY SITUATED
PERSONS
PLAINTIFF**

VS.

**IN THE 130TH JUDICIAL DISTRICT
COURT OF JEFFERSON COUNTY, TEXAS**

**EFG GENERAL PARTNER CORP., ET AL
DEFENDANT**

RETURN OF SERVICE

My name is **GUY CONNELLY**. I am over the age of eighteen (18), I am not a party to this case, and have no interest in its outcome. I am in all ways competent to make this affidavit and this affidavit is based on personal knowledge. The facts stated herein are true and correct. My business address is: 1320 QUITMAN ST. STE 100, HOUSTON, HARRIS COUNTY, TX 77009, U.S.A.

ON Monday November 08, 2021 AT 04:31 PM - CITATION, PLAINTIFF'S ORIGINAL CLASS-ACTION PETITION came to hand for service upon **EFG GENERAL PARTNER CORP BY SERVING ITS REGISTERED AGENT CT CORPORATION SYSTEM**.

On Wednesday November 10, 2021 at 11:05 AM - The above named documents were hand delivered to: EFG GENERAL PARTNER CORP BY SERVING ITS REGISTERED AGENT CT CORPORATION SYSTEM @ 1999 BRYAN STREET SUITE 900, DALLAS , TX 75201, in Person.
By delivering to Latoya Sterns, Intake Specialist.

FURTHER AFFIANT SAYETH NOT.

STATE OF TEXAS

DECLARATION

"My name is **GUY CONNELLY**, my date of birth is 11/04/1951 my business address is **1320 QUITMAN STREET, HOUSTON, TX 77009**, and I declare under penalty of perjury that this affidavit is true and correct."

Executed in Collin County, State of Texas on Wednesday November 10, 2021

/s/GUY CONNELLY

Declarant

PSC#2201 EXP. 09/30/22

Appointed in accordance with State Statutes

2021.11.604344

I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith

Page 4 of 4





I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JANIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Janie Smith

Certified Document Number: 2388883 Total Pages: 4

In accordance with Texas Government Code 51.301 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail districtclerk@co.jefferson.tx.us

CITATION

155
DISTRICT CLERK OF
JEFFERSON COUNTY, TEXAS
C0208582-00007
11/10/2021 12:50 PM
JAMIE SMITH
DISTRICT CLERK
D-208582

THE STATE OF TEXAS

No. D-0208582

**RONDA RACCA INDIVIDU
VS. EFG GENERAL PARTNER CORP ET AL**

CITATION

**136th JUDICIAL DISTRICT COURT
of JEFFERSON COUNTY, TEXAS**

To: **MCINERNEY, MICHAEL
BY SERVING ITS REGISTERED AGENT
CT CORPORATION SYSTEM**

by serving at:
**1999 BRYAN STREET
SUITE 900
DALLAS, TX 75201**

DEFENDANT:

NOTICE:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at "TexasLawHelp.org." Said answer may be filed by E-filing through efiletexas.gov, if represented by an attorney; or if filed pro se by delivering or mailing same to: District Clerk's Office, 1085 Pearl, Room 203, Beaumont, TX 77701. The case is presently pending before the 136th District Court of Jefferson County sitting in Beaumont, Texas, and was filed on the 12th day of October, 2021. It bears cause number D-0208582 and is styled:

Plaintiff:

**RONDA RACCA INDIVIDU
VS.
EFG GENERAL PARTNER CORP ET AL**

Defendant:

The name and address of the attorney for plaintiff (or plaintiff if pro se) is:

**FERGUSON, TIMOTHY M., Atty.
350 PINE STREET SUITE 1440
BEAUMONT, TX 77704 4905**

The nature of the demands of said plaintiff is shown by a true and correct copy of Plaintiff's PETITION (PLAINTIFF'S ORIGINAL) accompanying this citation and made a part thereof.

Issued under my hand and the seal of said court, at Beaumont, Texas, this the 13th day of October, 2021.

**JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS**

BY



Erin Haun

Deputy

I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith

Erin

I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith Page 2 of 4



RETURN OF SERVICE

D-0208582 136th JUDICIAL DISTRICT COURT

RONDA RACCA INDIVIDU

EFG GENERAL PARTNER CORP ET AL

Executed when copy was delivered:

This is a true copy of the original citation, was delivered to defendant _____, on the _____ day of _____, 20____.

_____, Officer

_____, County, Texas

By: _____, Deputy

ADDRESS FOR SERVICE:

MCINERNEY, MICHAEL
 BY SERVING ITS REGISTERED AGENT
 1999 BRYAN STREET
 SUITE 900
 DALLAS, TX 75201 0000

OFFICER'S RETURN

Came to hand on the _____ day of _____, 20____, at _____, o'clock _____.m., and executed in _____, County, Texas by delivering to each of the within named defendants in person, a true copy of this Citation with the date of delivery endorsed thereon, together with the accompanying copy of the Citation at the following times and places, to-wit:

Name	Date/Time	Place, Course and Distance from Courthouse
------	-----------	--

And not executed as to the defendant(s), _____

The diligence used in finding said defendant(s) being:

and the cause or failure to execute this process is:

and the information received as to the whereabouts of said defendant(s) being:

FEES:

Serving Petition and Copy \$_____

Total	\$_____	_____, Officer
		_____, County, Texas

By: _____, Deputy

Affiant

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign and return. The signature is not required to be verified. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return shall be signed under penalty of perjury and contain the following statement:

"My name is _____, my date of birth is _____, and my address is _____.
 (First, Middle, Last)

(Street, City, Zip)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FORGOING IS TRUE AND CORRECT.

Executed in _____, County, State of _____, on the _____ day of _____.

Declarant/Authorized Process Server

 (Id # expiration of certification)

I CERTIFY THIS IS A TRUE COPY
 Witness my Hand and Seal of Office

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
 JEFFERSON COUNTY, TEXAS

James Smith



CAUSE NUMBER: D-0208582

**RONDA RACCA, INDIVIDUALLY AND ON
BEHALF OF ALL SIMILARLY SITUATED
PERSONS
PLAINTIFF**

VS.

**IN THE 130TH JUDICIAL DISTRICT
COURT OF JEFFERSON COUNTY, TEXAS**

**EFG GENERAL PARTNER CORP., ET AL
DEFENDANT**

RETURN OF SERVICE

My name is **GUY CONNELLY**. I am over the age of eighteen (18), I am not a party to this case, and have no interest in its outcome. I am in all ways competent to make this affidavit and this affidavit is based on personal knowledge. The facts stated herein are true and correct. My business address is: 1320 QUITMAN ST. STE 100, HOUSTON, HARRIS COUNTY, TX 77009, U.S.A.

ON Monday November 08, 2021 AT 04:31 PM - CITATION, PLAINTIFF'S ORIGINAL CLASS-ACTION PETITION came to hand for service upon **MICHAEL MCINERNEY BY SERVING ITS REGISTERED AGENT CT CORPORATION SYSTEM .**

On Wednesday November 10, 2021 at 11:05 AM - The above named documents were hand delivered to: **MICHAEL MCINERNEY BY SERVING ITS REGISTERED AGENT CT CORPORATION SYSTEM @ 1999 BRYAN STREET SUITE 900, DALLAS , TX 75201, in Person.** By delivering to Latoya Sterns, Intake Specialist.

FURTHER AFFIANT SAYETH NOT.

STATE OF TEXAS

DECLARATION

"My name is **GUY CONNELLY**, my date of birth is 11/04/1951 my business address is **1320 QUITMAN STREET, HOUSTON, TX 77009**, and I declare under penalty of perjury that this affidavit is true and correct."

Executed in Collin County, State of Texas on Wednesday November 10, 2021

/s/ GUY CONNELLY

Declarant

PSC#2201 EXP. 09/30/22

Appointed in accordance with State Statutes

2021.11.604353

I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith

Page 4 of 4





I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JANIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Janie Smith

Certified Document Number: 2388882 Total Pages: 4

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11/10/2021 12:30 PM

JAMIE SMITH
DISTRICT CLERK
D-208582

CITATION

THE STATE OF TEXAS

No. D-0208582

**RONDA RACCA INDIVIDU
VS. EFG GENERAL PARTNER CORP ET AL**

CITATION

**136th JUDICIAL DISTRICT COURT
of JEFFERSON COUNTY, TEXAS**

To: COMPUTER CAREER CENTER LP
DBA VISTA COLLEGE
BY SERVING ITS REGISTERED AGENT CT CORPORATION SYSTEM

by serving at:
1999 BRYAN STREET
SUITE 900
DALLAS, TX 75201

DEFENDANT:

NOTICE:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org." Said answer may be filed by E-filing through efiletexas.gov, if represented by an attorney; or if filed pro se by delivering or mailing same to: District Clerk's Office, 1085 Pearl, Room 203, Beaumont, TX 77701. The case is presently pending before the 136th District Court of Jefferson County sitting in Beaumont, Texas, and was filed on the 12th day of October, 2021. It bears cause number D-0208582 and is styled:

Plaintiff:

**RONDA RACCA INDIVIDU
VS.
EFG GENERAL PARTNER CORP ET AL**

Defendant:

The name and address of the attorney for plaintiff (or plaintiff if pro se) is:

**FERGUSON, TIMOTHY M., Atty.
350 PINE STREET SUITE 1440
BEAUMONT, TX 77704 4905**

The nature of the demands of said plaintiff is shown by a true and correct copy of Plaintiff's PETITION (PLAINTIFF'S ORIGINAL) accompanying this citation and made a part thereof.

Issued under my hand and the seal of said court, at Beaumont, Texas, this the 13th day of October, 2021.

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS



BY

Deputy

I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Erin

I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith Page 2 of 4



RETURN OF SERVICE

D-0208582 136th JUDICIAL DISTRICT COURT

RONDA RACCA INDIVIDU

EFG GENERAL PARTNER CORP ET AL

Executed when copy was delivered:

This is a true copy of the original citation, was delivered to defendant _____, on the _____ day of _____, 20____.

_____, Officer

_____, County, Texas

By: _____, Deputy

ADDRESS FOR SERVICE:

COMPUTER CAREER CENTER LP
DBA VISTA COLLEGE
1999 BRYAN STREET
SUITE 900
DALLAS, TX 75201 0000

OFFICER'S RETURN

Came to hand on the _____ day of _____, 20____, at _____, o'clock _____.m., and executed in _____, County, Texas by delivering to each of the within named defendants in person, a true copy of this Citation with the date of delivery endorsed thereon, together with the accompanying copy of the Citation at the following times and places, to-wit:

Name	Date/Time	Place, Course and Distance from Courthouse
_____	_____	_____

And not executed as to the defendant(s), _____

The diligence used in finding said defendant(s) being:

and the cause or failure to execute this process is:

and the information received as to the whereabouts of said defendant(s) being:

FEES:

Serving Petition and Copy \$ _____

Total	\$ _____	_____, Officer
		_____, County, Texas

By: _____, Deputy

Affiant

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign and return. The signature is not required to be verified. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return shall be signed under penalty of perjury and contain the following statement:

"My name is _____, my date of birth is _____, and my address is _____.
(First, Middle, Last)

(Street, City, Zip)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FORGOING IS TRUE AND CORRECT.

Executed in _____, County, State of _____, on the _____ day of _____.

Declarant/Authorized Process Server

(Id # expiration of certification)

I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

James Smith

CAUSE NUMBER: D-0208582

**RONDA RACCA, INDIVIDUALLY AND ON
BEHALF OF ALL SIMILARLY SITUATED
PERSONS
PLAINTIFF**

VS.

**EFG GENERAL PARTNER CORP., ET AL
DEFENDANT**

**IN THE 130TH JUDICIAL DISTRICT
COURT OF JEFFERSON COUNTY, TEXAS**

RETURN OF SERVICE

My name is **GUY CONNELLY**. I am over the age of eighteen (18), I am not a party to this case, and have no interest in its outcome. I am in all ways competent to make this affidavit and this affidavit is based on personal knowledge. The facts stated herein are true and correct. My business address is: 1320 QUITMAN ST. STE 100, HOUSTON, HARRIS COUNTY, TX 77009, U.S.A.

ON Monday November 08, 2021 AT 04:31 PM - CITATION, PLAINTIFF'S ORIGINAL CLASS-ACTION PETITION came to hand for service upon **COMPUTER CAREER CENTER LP BY SERVING ITS REGISTERED AGENT CT CORPORATION SYSTEM**.

On Wednesday November 10, 2021 at 11:05 AM - The above named documents were hand delivered to: COMPUTER CAREER CENTER LP BY SERVING ITS REGISTERED AGENT CT CORPORATION SYSTEM @ 1999 BRYAN STREET SUITE 900, DALLAS , TX 75201, in Person.
By delivering to Latoya Sterns, Intake Specialist.

FURTHER AFFIANT SAYETH NOT.

STATE OF TEXAS

DECLARATION

"My name is **GUY CONNELLY**, my date of birth is 11/04/1951 my business address is **1320 QUITMAN STREET, HOUSTON, TX 77009**, and I declare under penalty of perjury that this affidavit is true and correct."

Executed in Collin County, State of Texas on Wednesday November 10, 2021

/s/GUY CONNELLY

Declarant

PSC#2201 EXP. 09/30/22

Appointed in accordance with State Statutes

2021.11.604341

I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith

Page 4 of 4





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April 01, 2022

JANIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Janie Smith

Certified Document Number: 2388881 Total Pages: 4

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JAMIE SMITH
JEFFERSON COUNTY DISTRICT CLERK
1085 PEARL STREET, ROOM 203, BEAUMONT, TX 77701-208582

DISTRICT CLERK OF
JEFFERSON CO TEXAS
10/12/2021 3:22 PM
JAMIE SMITH
DISTRICT CLERK

REQUEST FOR PROCESS

All sections must be completed for processing this request.

Section 1:
Cause No. _____

Date October 12, 2021

Style:

Ronda Racca, Individually and on Behalf of all Similarly Situated Persons

VS

EFG General Partner Corp, et al

Section 2:

Check Process Type:

Citation Precept to Serve / Notice of Hearing/Notice to Show Cause

Temporary Restraining Order

Application for Protective Order / Temporary (Ex Parte) Protective Order

Notice of Registration of Foreign Judgment Citation by Posting

Writ of _____

Other _____

Citation by Publication*- Newspaper: _____

Check box if you would like the District Clerk's Office to make copies for your service. (\$1.00 per page per pleading for copies for service)

Section 3:

Title of Document/Pleading to be attached for service: Plaintiff's Original Class Action Petition

Note: You must furnish one copy of the document/pleading for each party served.

Section 4: PARTIES TO BE SERVED (Please type or print):

1. Name: EFG GENERAL PARTNER CORP.(Registered Agent: C T CORPORATION SYSTEM)

Address: 1999 Bryan Street, Suite 900

City: Dallas

State: Texas

Zip: 75201

2. Name: EDUCATION FUTURES MANAGEMENT, COMPANY

Address: 300 N Coit Road, Suite 1400

City: Richardson

State: Texas

Zip: 75080

I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith

3. Name: COMPUTER CAREER CENTER, L.P. D/B/A VISTA COLLEGE (Registered Agent: CT Corporation System)

Address: 1999 Bryan Street, Suite 900

City: Dallas State: Texas Zip: 75201

4. Name: LOUIS KENTER (Registered Agent: CT Corporation System)

Address: 1999 Bryan Street, Suite 900

City: Dallas State: Texas Zip: 75201

5. Name: MICHAEL MCINERNEY (Registered Agent: C T CORPORATION SYSTEM)

Address: 1999 Bryan Street, Suite 900

City: Dallas State: Texas Zip: 75201

Section 5

Check Service Type:

<input type="checkbox"/> No Service	<input type="checkbox"/> Secretary of State
<input type="checkbox"/> Sheriff	<input type="checkbox"/> Commissioner of Insurance
<input type="checkbox"/> Constable Pct.	<input type="checkbox"/> Out of County
<input type="checkbox"/> Out of State	<input checked="" type="checkbox"/> Private Process <input type="checkbox"/> Other
<input type="checkbox"/> Certified Mail	

Section 6 (ONLY if Section 7 does not apply)

Attorney Name: Timothy M. Ferguson

Address: Edison Plaza, 350 Pine Street, suite 1440

Street/P.O. Box 77701
Beaumont Texas 77701
City Texas Zip 77701

Attorney's Telephone No. 409-832-9700 Attorney's Bar No. 24099479

Section 7 (ONLY if Section 6 does not apply)

Pro-Se Name: _____

Address: _____

City _____ State _____ Zip _____

Telephone No. _____

Section 8

Check Delivery Type: Please call Jamie Schiesler @ (409) 832-9700 when citation is ready.

Hold for pick up Mail to Attorney

I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith

Page 2 of 2





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April 01, 2022

JANIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Janie Smith

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DISTRICT CLERK OF
JEFFERSON CO TEXAS
11/23/2021 2:31 PM
JAMIE SMITH
DISTRICT CLERK
D-208582

CAUSE NO. D-208582

RONDA RACCA, INDIVIDUALLY AND §
ON BEHALF OF ALL SIMILARLY §
SITUATED PERSONS, §

Plaintiffs, §

v. §

EFG GENERAL PARTNER CORP., §
EDUCATION FUTURES §
MANAGEMENT, COMPANY, §
COMPUTER CAREER CENTER, L.P. §
D/B/A VISTA COLLEGE, PROSPECT §
PARTNERS, LLC, JIM TOLBERT, §
MICHAEL MCINERNEY, AND LOUIS §
KENTER, §

IN THE DISTRICT COURT OF

JEFFERSON COUNTY, TEXAS

Defendants.

172ND JUDICIAL DISTRICT

NOTICE OF PARTIAL NON-SUIT WITHOUT PREJUDICE

TO THE HONORABLE JUDGE MITCH TEMPLETON:

Plaintiffs, Ronda Racca, Individually and On Behalf of All Similarly Situated Persons, move the Court to non-suit without prejudice Defendants EDUCATION FUTURES MANAGEMENT, COMPUTER CAREER CENTER, L.P. D/B/A VISTA COLLEGE, EFG FUTURES GROUP, LLC, AND EFG GENERAL PARTNER CORP., and as grounds would show the following:

NON-SUIT WITHOUT PREJUDICE

Plaintiffs, Ronda Racca, Individually and On Behalf of All Similarly Situated Persons, file this notice of non-suit without prejudice on all claims against Defendants, EDUCATION FUTURES MANAGEMENT, COMPUTER CAREER CENTER, L.P. D/B/A VISTA COLLEGE, EFG FUTURES GROUP, LLC, AND EFG GENERAL PARTNER CORP., as Plaintiffs no longer wish to pursue their claims at this time against Defendants, EDUCATION FUTURES MANAGEMENT, COMPUTER CAREER CENTER, L.P. D/B/A VISTA

I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith

Page 1 of 6



COLLEGE, EFG FUTURES GROUP, LLC, AND EFG GENERAL PARTNER CORP.

All court costs, attorney fees, and expenses are to be taxed against the party incurring same.

PRAYER

Plaintiffs, Ronda Racca, Individually and On Behalf of All Similarly Situated Persons, pray that the Court sign an Order acknowledging Plaintiffs' Non-Suit of Defendants EDUCATION FUTURES MANAGEMENT, COMPUTER CAREER CENTER, L.P. D/B/A VISTA COLLEGE, EFG FUTURES GROUP, LLC, AND EFG GENERAL PARTNER CORP., from the above cause.

Respectfully submitted,

THE FERGUSON LAW FIRM, LLP

/s/ Mark C. Sparks

Mark Sparks

Texas Bar No. 24000273

mark@thefergusonlawfirm.com

Timothy M. Ferguson

Texas Bar No. 24099479

tferguson@thefergusonlawfirm.com

350 Pine Street, Suite 1440

Beaumont, Texas 77701

(409) 832-9700 Phone

(409) 832-9708 Fax

and:

BAILEY REYES, PLLC

Christopher A. Bailey

Texas Bar No. 24104549

chris@baileyreyes.com

Julliana Reyes

Texas Bar No. 24103899

julie@baileyreyes.com

2125 Calder Avenue

Beaumont, Texas 77701

(409) 239-0123 Phone

(409) 895-2363 Fax

ATTORNEYS FOR PLAINTIFFS

I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith

Page 2 of 6

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of November 2021, a true and correct copy of the foregoing document was forwarded to all counsel of record in accordance with the Texas Rules of Civil Procedure.

/s/ Timothy M. Ferguson
Timothy M. Ferguson

I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith Page 3 of 6

CAUSE NO. D-208582

**RONDA RACCA, INDIVIDUALLY AND
ON BEHALF OF ALL SIMILARLY
SITUATED PERSONS,**

Plaintiffs,

v.

**EFG GENERAL PARTNER CORP.,
EDUCATION FUTURES
MANAGEMENT, COMPANY,
COMPUTER CAREER CENTER, L.P.
D/B/A VISTA COLLEGE, PROSPECT
PARTNERS, LLC, JIM TOLBERT,
MICHAEL MCINERNEY, AND LOUIS
KENTER,**

Defendants.

IN THE DISTRICT COURT OF

JEFFERSON COUNTY, TEXAS

172ND JUDICIAL DISTRICT

ORDER OF PARTIAL NON-SUIT WITHOUT PREJUDICE

The Court having reviewed Plaintiffs' *Notice of Partial Non-Suit Without Prejudice* as to Defendants EDUCATION FUTURES MANAGEMENT, COMPUTER CAREER CENTER, L.P. D/B/A VISTA COLLEGE, EFG FUTURES GROUP, LLC, AND EFG GENERAL PARTNER CORP., and is of the opinion that it should be acknowledged. It is therefore:

ORDERED that all of Plaintiffs' claims against Defendants EDUCATION FUTURES MANAGEMENT, COMPUTER CAREER CENTER, L.P. D/B/A VISTA COLLEGE, EFG FUTURES GROUP, LLC, AND EFG GENERAL PARTNER CORP., are dismissed without prejudice to refile and that Defendants, EDUCATION FUTURES MANAGEMENT, COMPUTER CAREER CENTER, L.P. D/B/A VISTA COLLEGE, EFG FUTURES GROUP, LLC, AND EFG GENERAL PARTNER CORP., are hereby non-suited without prejudice from this cause of action.

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Witness my Hand and Seal of Office

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith

Page 4 of 6

Nothing herein shall defeat nor diminish any other claims against any other parties to this case. All court costs, attorney fees, and expenses are to be taxed against the party incurring same.

SIGNED the _____ day of _____, 2021.

HONORABLE JUDGE MITCH TEMPLETON

CLERK OF JEFFERSON COUNTY, TEXAS
I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith
Page 5 of 6

Automated Certificate of eService

This automated certificate of service was created by the efilng system. The filer served this document via email generated by the efilng system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Cassandra Fontenot on behalf of Timothy Ferguson
 Bar No. 24099479
 cfontenot@thefergusonlawfirm.com
 Envelope ID: 59435468
 Status as of 11/23/2021 2:42 PM CST

Associated Case Party: RONDARACCA

Name	BarNumber	Email	TimestampSubmitted	Status
Timothy MFerguson		tferguson@thefergusonlawfirm.com	11/23/2021 2:31:43 PM	SENT
Cassandra Fontenot		cfontenot@thefergusonlawfirm.com	11/23/2021 2:31:43 PM	SENT
Mark C.Sparks		mark@thefergusonlawfirm.com	11/23/2021 2:31:43 PM	SENT
Jamie Schiesler		jschiesler@thefergusonlawfirm.com	11/23/2021 2:31:43 PM	SENT
Jamie Schiesler		Jschiesler@thefergusonlawfirm.com	11/23/2021 2:31:43 PM	SENT
Jamie Schiesler		jschiesler@thefergusonlawfirm.com	11/23/2021 2:31:43 PM	SENT

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April 01, 2022

JAMIE SMITH, DISTRICT CLERK
 JEFFERSON COUNTY, TEXAS

Jamie Smith

Page 6 of 6





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April 01, 2022

JANIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Janie Smith

Certified Document Number: 2393630 Total Pages: 6

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DISTRICT CLERK OF
JEFFERSON CO TEXAS
11/23/2021 4:29 PM
JAMIE SMITH
DISTRICT CLERK
D-208582

CAUSE NO. D-208582

RONDA RACCA, INDIVIDUALLY AND §
ON BEHALF OF ALL SIMILARLY §
SITUATED PERSONS, §

IN THE DISTRICT COURT OF

Plaintiffs, §
v. §
§
EFG GENERAL PARTNER CORP., §
EDUCATION FUTURES §
MANAGEMENT, COMPANY, §
COMPUTER CAREER CENTER, L.P. §
D/B/A VISTA COLLEGE, PROSPECT §
PARTNERS, LLC, JIM TOLBERT, §
MICHAEL MCINERNEY, AND LOUIS §
KENTER, §

JEFFERSON COUNTY, TEXAS

Defendants.

172ND JUDICIAL DISTRICT

ORDER OF PARTIAL NON-SUIT WITHOUT PREJUDICE

The Court having reviewed Plaintiffs' *Notice of Partial Non-Suit Without Prejudice* as to Defendants EDUCATION FUTURES MANAGEMENT, COMPUTER CAREER CENTER, L.P. D/B/A VISTA COLLEGE, EFG FUTURES GROUP, LLC, AND EFG GENERAL PARTNER CORP., and is of the opinion that it should be acknowledged. It is therefore:

ORDERED that all of Plaintiffs' claims against Defendants EDUCATION FUTURES MANAGEMENT, COMPUTER CAREER CENTER, L.P. D/B/A VISTA COLLEGE, EFG FUTURES GROUP, LLC, AND EFG GENERAL PARTNER CORP., are dismissed without prejudice to refile and that Defendants, EDUCATION FUTURES MANAGEMENT, COMPUTER CAREER CENTER, L.P. D/B/A VISTA COLLEGE, EFG FUTURES GROUP, LLC, AND EFG GENERAL PARTNER CORP., are hereby non-suited without prejudice from this cause of action.

I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith

Page 1 of 3

Nothing herein shall defeat nor diminish any other claims against any other parties to this case. All court costs, attorney fees, and expenses are to be taxed against the party incurring same.

SIGNED the 23rd day of November, 2021.

Baylor Wortham
HONORABLE JUDGE ~~XXXXXXXXXXXXXX~~

CLERK OF JEFFERSON COUNTY, TEXAS
I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith
Page 2 of 3

Automated Certificate of eService

This automated certificate of service was created by the efilng system. The filer served this document via email generated by the efilng system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 59445750
Status as of 11/24/2021 11:28 AM CST

Associated Case Party: RONDARACCA

Name	BarNumber	Email	TimestampSubmitted	Status
Jamie Schiesler		jschiesler@thefergusonlawfirm.com	11/23/2021 4:29:26 PM	SENT
Jamie Schiesler		Jschiesler@thefergusonlawfirm.com	11/23/2021 4:29:26 PM	SENT
Timothy MFerguson		tferguson@thefergusonlawfirm.com	11/23/2021 4:29:26 PM	SENT
Jamie Schiesler		jschiesler@thefergusonlawfirm.com	11/23/2021 4:29:26 PM	SENT
Mark C.Sparks		mark@thefergusonlawfirm.com	11/23/2021 4:29:26 PM	SENT
Cassandra Fontenot		cfontenot@thefergusonlawfirm.com	11/23/2021 4:29:26 PM	SENT

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Witness my Hand and Seal of Office

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith

Page 3 of 3





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April 01, 2022

JANIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Janie Smith

Certified Document Number: 2393913 Total Pages: 3

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DISTRICT CLERK OF
JEFFERSON CO TEXAS
3/31/2022 10:28 AM
JAMIE SMITH
DISTRICT CLERK
D-208582

CAUSE NO. D-208582

RONDA RACCA, INDIVIDUALLY ON §
BEHALF OF ALL §
SIMILARLY SITUATED PERSONS, §

IN THE DISTRICT COURT OF

Plaintiffs, §
v. §
§
EFG GENERAL PARTNER CORP., §
EDUCATION FUTURES §
MANAGEMENT, COMPANY, §
EDUCATION FUTURES GROUP, LLC, §
COMPUTER CAREER CENTER, L.P. §
D/B/A VISTA COLLEGE, PROSPECT §
PARTNERS, LLC, JIM TOLBERT, §
MICHAEL MCINERNEY, AND LOUIS §
KENTER, §

JEFFERSON COUNTY, TEXAS

Defendants. §

136TH JUDICIAL DISTRICT

NOTICE OF UNITED STATES BANKRUPTCY COURT ORDER AND OF LIFTING
AUTOMATIC STAY OF PROCEEDINGS

TO THE HONORABLE JUDGE BAYLOR WORTHAM:

COMES NOW Plaintiff, **RONDA RACCA**, individually and on behalf of all similarly situated persons (as defined in the Class below), and files this, her Notice of United States Bankruptcy Court Order and Lifting of Stay of Proceedings and, in support thereof would show this Honorable Court as follows:

On October 11, 2021, Defendants **EFG GENERAL PARTNER CORP.**,

EDUCATION FUTURES MANAGEMENT CO., EDUCATION FUTURES GROUP, LLC, and **COMPUTER CAREER CENTER, L.P.**, and other Debtors¹ each filed a voluntary

¹ The complete list of debtors in the bankruptcy cases, along with the last four digits of their federal tax identification number are: Vista Professional Development, LLC (1334); Vista Professional International, LLC (7452); New Day Vista, LLC (7094); Computer Career Center, L.P. (3502); EFG General Partner Corp. (3315); EFG Limited Partner Corp. (3194); Certified Careers Institute, LLC (3122); Education Futures Management Co. (6336); and Education Futures Group, LLC (3445).

I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith

Page 1 of 9



petition for relief under Chapter 7 of Title 11 of the United States Code. The aforementioned bankruptcy cases are jointly administered as *In re Vista Professional Development, LLC, et al.*, Case No. 21-11318 (JTD), Docket Nos. 90 and 112, In the United States Bankruptcy Court for the District of Delaware.

PLEASE TAKE NOTICE that on March 28, 2022, United States Bankruptcy Judge John T. Dorsey entered the attached “**ORDER APPROVING STIPULATION REGARDING MOTION FOR RELIEF TO MODIFY STAY TO PERMIT PROSECUTION OF LAWSUIT**” in Defendant-Debtors’ Chapter 7 cases. A true and correct copy of the Order is attached hereto and is marked as Exhibit “A.” Due to entry of the foregoing Order, the stay of this action is now lifted.

Respectfully submitted,

THE FERGUSON LAW FIRM, LLP

/s/ Mark C. Sparks

Mark Sparks
Texas Bar No. 24000273
mark@thefergusonlawfirm.com
Timothy M. Ferguson
Texas Bar No. 24099479
tferguson@thefergusonlawfirm.com
350 Pine Street, Suite 1440
Beaumont, Texas 77701
(409) 832-9700 Phone
(409) 832-9708 Fax

and:

BAILEY REYES, PLLC

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2125 Calder Avenue

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April 01, 2022

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Jamie Smith

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Beaumont, Texas 77701
(409) 239-0123 Phone
(409) 895-2363 Fax

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

This is to certify that the original of the foregoing instrument has been served on opposing counsel on this the 31st day of March 2022, by facsimile and electronic filing.

/s/Timothy M. Ferguson

Timothy M. Ferguson

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re

VISTA PROFESSIONAL
DEVELOPMENT, LLC, *et al.*,¹

Debtors.

X
:
:
:
:
:
X

Chapter 7
Case No. 21-11318 (JTD)
(Jointly Administered)
Re: Docket Nos. 90 and 112

**ORDER APPROVING STIPULATION REGARDING MOTION FOR RELIEF
TO MODIFY STAY TO PERMIT PROSECUTION OF LAWSUIT**

Upon consideration of the *Stipulation regarding the FLF Movants' Motion for Relief to Modify Stay to Permit Prosecution of Lawsuit* attached hereto as **Exhibit 1** (the "Stipulation"); and the Court having determined that good and adequate cause exists for approval of the Stipulation; and the Court having determined that no further notice of the Stipulation must be given.

IT IS HEREBY ORDERED that the Stipulation is APPROVED.

Dated: March 28th, 2022
Wilmington, Delaware


JOHN T. DORSEY
UNITED STATES BANKRUPTCY JUDGE

¹ The debtors in these cases, along with the last four digits of the federal tax identification number for each of the debtors, where applicable are: Vista Professional Development, LLC (1334); Vista Professional International, LLC (7452); New Day Vista, LLC (7094); Computer Career Center, L.P. (3502); EFG General Partner Corp. (3315); EFG Limited Partner Corp. (3194); Certified Careers Institute, LLC (3122); Education Futures Management Co. (6336); and Education Futures Group, LLC (3445).

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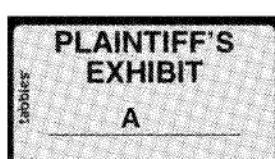


EXHIBIT 1

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April 01, 2022

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith Page 5 of 9



IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re

VISTA PROFESSIONAL
DEVELOPMENT, LLC, *et al.*,¹

Debtors.

X
:
:
:
:
:
X

Chapter 7
Case No. 21-11318 (JTD)
(Jointly Administered)
Re: Docket Nos. 90 and 112

STIPULATION

Alfred T. Giuliano, solely in his capacity as the chapter 7 trustee (the “Trustee”) of the estates of the above-captioned debtors (the “Debtors”) and FLF Movants² hereby stipulate (the “Stipulation”) and agree, as follows:

WHEREAS, on October 11, 2021 (the “Petition Date”), Debtors each filed a voluntary petition for relief under chapter 7 of title 11 of the United States Code;

WHEREAS, on November 30, 2021, the FLF Movants filed a *Motion for Relief to Modify Stay to Permit Prosecution of Lawsuit* [D.I. 90] (the “Stay Relief Motion”)³; and,

WHEREAS, On February 9, 2022, the Chapter 7 Trustee filed an *Objection to the FLF Movants’ Motion for Relief To Modify Stay To Permit Prosecution of Lawsuit* [D.I. 112].

NOW THEREFORE, in consideration of the foregoing and the mutual promises and covenants as set forth herein, and other good and valuable consideration, the adequacy and receipt of which the parties hereby acknowledge, the parties hereby agree as follows:

¹ The debtors in these cases, along with the last four digits of the federal tax identification number for each of the debtors, where applicable are: Vista Professional Development, LLC (1334); Vista Professional International, LLC (7452); New Day Vista, LLC (7094); Computer Career Center, L.P. (3502); EFG General Partner Corp. (3315); EFG Limited Partner Corp. (3194); Certified Careers Institute, LLC (3122); Education Futures Management Co. (6336); and Education Futures Group, LLC (3445).

² As used herein, the term FLF Movants includes any additional plaintiffs that may be added to the Texas Action, including any class that may be certified or any class member, or any plaintiffs who retain FLF in relation to the allegations raised in the Texas action.

³ Unless otherwise defined herein, capitalized terms shall the meanings ascribed to them in the Stay Relief Motion.

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1. The automatic stay imposed pursuant to 11 U.S.C. § 362 shall be modified and lifted to permit all FLF clients to re-name Debtors as defendants in – and prosecute – the lawsuit now pending in the 172nd District Court of Jefferson County, Texas identified as Cause No. D-208582 (the “Texas Action”), as well as permit any FLF client to file any claim or lawsuit in a court or arbitration proceeding necessary to pursue the available insurance proceeds. Except as expressly set forth herein, the automatic stay shall remain in place for all other purposes.

2. FLF Movants’ recovery in the Texas Action shall be expressly limited to available proceeds, if any, from insurance policies belonging to the Debtors, including the following:

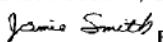
- a. Educators Legal Liability and Employment Practices Insurance Policy No. ELL0954761 issued by Indian Harbor Insurance Company;
- b. Excess Policy No. MMX-02187-20 issued by Homeland Insurance Company of New York; and
- c. Excess Policy No. 100010496 issued by QBE Specialty Insurance Company.

3. FLF Movants shall be precluded from enforcing any judgment or asserting any claims against the Trustee, the Estates, or the Debtors, and FLF Movants hereby agree to forego any and all right to participate in a recovery from the assets of, or distributions from, the Debtors’ Estates. Without limiting the foregoing, FLF Movants hereby waive any claim for amounts over the coverage limits or caps of any applicable insurance policy insofar as it relates to the Debtors and shall be barred from proceeding against the Debtors or their Estates for any such amounts. However, nothing herein shall constitute a waiver by FLF Movants, or any claimants represented by FLF Movants’ counsel, of their rights against the insurers under the *Stowers* doctrine available under Texas law, *See G. A. Stowers Furniture Co. v. American Indemnity Co.*, 15 S.W.2d 544

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April 01, 2022

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(Tex. App. 1929) (“*Stowers*”), or any similar law applicable to insurer duties to act prudently and reasonably to evaluate claims/litigation and reasonably resolve and/or adjust them.

4. Notwithstanding the foregoing, if any insurance policy requires the Debtors to pay a self-insured retention or deductible: (a) FLF Movants shall proceed only against the available insurance coverage under the policy; and (b) the automatic stay shall not be modified with respect to any deductible or self-insured retention. For the avoidance of doubt, the Trustee and the Debtors’ Estates shall not be liable for and are not undertaking any obligation to pay any self-insured retention or deductible in connection with any insurance policy pursuant to this Stipulation or otherwise. Further, for the avoidance of doubt, nothing in this Stipulation shall give rise to an administrative expense claim in the Debtors’ chapter 7 cases.

5. When the FLF lawsuit or arbitration is completed, the FLF Movants shall withdraw any claims filed against the Debtors or the Estates.

6. The Trustee and Debtors make no representations about the availability of insurance coverage for any claims that might be asserted by the FLF Movants.

7. This Court shall retain exclusive jurisdiction over any dispute arising under this Stipulation or Order approving the same, and to enforce its terms for such time as the Debtors’ bankruptcy cases remain open.

March 25, 2022

/s/ David W. Carickhoff
David W. Carickhoff (No. 3715)
Bryan J. Hall (No. 6285)
ARCHER & GREINER, P.C.
300 Delaware Avenue, Suite 1100
Wilmington, DE 19801
(302) 777-4350
dcarickhoff@archerlaw.com
bjhall@archerlaw.com
Counsel for the Chapter 7 Trustee

/s/ Garvan F. McDaniel
Garvan McDaniel (#4167)
Hogan McDaniel
1311 Delaware Ave
Wilmington, DE 19806
(302) 656-7540
gfmcdaniel@dkhogan.com

Attorney for Petitioner

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Jamie Schiesler on behalf of Timothy Ferguson
 Bar No. 24099479
 jschiesler@thefergusonlawfirm.com
 Envelope ID: 63132733
 Status as of 3/31/2022 10:33 AM CST

Associated Case Party: RONDARACCA

Name	BarNumber	Email	TimestampSubmitted	Status
Jamie Schiesler		jschiesler@thefergusonlawfirm.com	3/31/2022 10:28:17 AM	SENT
Jamie Schiesler		Jschiesler@thefergusonlawfirm.com	3/31/2022 10:28:17 AM	SENT
Timothy MFerguson		tferguson@thefergusonlawfirm.com	3/31/2022 10:28:17 AM	SENT
Jamie Schiesler		jschiesler@thefergusonlawfirm.com	3/31/2022 10:28:17 AM	SENT
Mark C.Sparks		mark@thefergusonlawfirm.com	3/31/2022 10:28:17 AM	SENT
Kara Mace		kmace@thefergusonlawfirm.com	3/31/2022 10:28:17 AM	SENT

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DISTRICT CLERK OF
JEFFERSON CO TEXAS
3/30/2022 2:14 PM
JAMIE SMITH
DISTRICT CLERK
D-208582

RONDA RACCA, INDIVIDUALLY) CAUSE NO. D-208582
AND ON BEHALF OF ALL)
SIMILARLY SITUATED PERSONS.)

Plaintiff,

v.

EFG GENERAL PARTNER CORP.,)
EDUCATION FUTURES)
MANAGEMENT, COMPANY,)
EDUCATION FUTURES GROUP,)
LLC, COMPUTER CAREER)
CENTER, L.P. D/B/A VISTA)
COLLEGE, PROSPECT PARTNERS,)
LLC, JIM TOLBERT, MICHAEL)
MCINERNEY, AND LOUIS KENTER.)

Defendants.

) IN THE DISTRICT COURT OF
JEFFERSON COUNTY, TEXAS

) 136TH JUDICIAL DISTRICT

NOTICE OF APPEARANCE

COMES NOW Attorney Joshua B. Baker with the law firm of Maynard, Cooper & Gale, P.C., and hereby enters his appearance as counsel for Defendants Prospect Partners, LLC, Michael McInerney, and Louis Kenter in the above-styled proceeding and further requests that all notices and pleadings be served by electronic mail at JBaker@maynardcooper.com.

Dated: March 30, 2022.

Respectfully submitted,

/s/ Joshua Baker

Joshua Baker
MAYNARD, COOPER & GALE, P.C.
1901 Sixth Avenue North
Suite 1700
Birmingham, Alabama 35203-2602
Phone: (205) 254-1000
Fax: (205) 254-1999 (fax)
jbaker@maynardcooper.com

*Attorneys for Defendants Prospect Partners, LLC, Michael
McInerney, and Louis Kenter*

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CERTIFICATE OF SERVICE

I hereby certify that on March 30, 2022, a copy of the above and foregoing Notice of Appearance was filed with the Court, which sent notification to all counsel of record.

/s/ Joshua Baker
OF COUNSEL

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